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FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
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4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

SAN FRANCISCO, CA

WHEN: July 22, at 9:00 am
WHERE: Federal Building and U.S. Courthouse, Conference Room 7209–A, 450 Golden Gate Avenue, San Francisco, CA
RESERVATIONS: Federal Information Center, 1–800–726–4995

SEATTLE, WA

WHEN: July 23, at 1:00 pm
WHERE: Henry M. Jackson Federal Building, North Auditorium, 915 Second Avenue, Seattle, WA
RESERVATIONS: Federal Information Center, 1–800–726–4995

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CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

Rules and Regulations

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FEDERAL RESERVE SYSTEM

12 CFR Part 225

[Regulation Y; Docket No. R-0761]

Bank Holding Companies and Changes in Bank Control

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board has revised part 225 (Regulation Y) by streamlining certain procedural requirements in that rule to reduce unnecessary regulatory burden.

The revisions include: the publication of criteria to determine whether an application under the Bank Holding Company Act (BHC Act) may be waived for transactions involving certain bank mergers; an increase in the size of nonbank companies that can be acquired by a bank holding company under the Board's 15-day expedited notice procedures; and an increase in the relative size of nonbank assets that can be acquired by a bank holding company in the ordinary course of business without prior Federal Reserve System (System) approval.

EFFECTIVE DATE: The amendments to part 225 of the Board's Rules are effective June 29, 1992.

FOR FURTHER INFORMATION CONTACT: Scott G. Alvarez, Associate General Counsel (202/452-3583), or Deborah M. Awai, Attorney (202/452-3594), Legal Division; Sidney M. Sussan, Assistant Director (202/452-2638), or Gary P. Knoblach, Senior Financial Analyst (202/452-3270), Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System. For the hearing impaired *only*, Telecommunication Device for the Deaf (TDD), Dorothea Thompson (202/452-3544), Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551.

SUPPLEMENTARY INFORMATION: The Board has revised several provisions of the Board's Regulation Y (part 225) to streamline certain procedures to reduce unnecessary regulatory burden. The adoption of these procedures would not jeopardize important public policy objectives, particularly maintaining the safety and soundness of the banking system, or the Board's ability to fulfill statutory objectives. The revisions include:

(1) The publication of criteria to determine whether an application under the Bank Holding Company Act may be waived for transactions involving certain bank mergers;

(2) An increase in the size of nonbank companies that may be acquired by a bank holding company under the Board's 15-day expedited notice procedures; and

(3) An increase in the relative size of nonbank assets that may be acquired by a bank holding company in the ordinary course of business without prior System approval.

I. Waiver of Bank Merger Act Applications

Section 225.12 of Regulation Y provides that a bank holding company is not required to obtain prior Board approval for a transaction that involves the merger or consolidation of a subsidiary bank of the holding company with another bank if the transaction requires the prior approval of a federal supervisory agency under the Bank Merger Act.[1] This exception does not by its terms apply to transactions in which the bank holding company acquires the voting shares of another bank prior to merging the bank into an existing subsidiary. This exception also does not apply if the bank holding company acquires shares of a bank holding company that is immediately dissolved or merged as part of the underlying bank merger.

The System has, on a case-by-case basis, determined that an application is not required in situations where the essence of the transaction is a bank merger that is reviewed by a federal banking agency under the Bank Merger Act, the merger occurs simultaneously with the bank or bank holding company acquisition and the bank is not operated by the acquiring bank holding company as a separate entity, and the transaction does not raise any significant issue that is uniquely within the Board's area of review under the BHC Act.[2] The Board believes that formally publishing these conditions would eliminate applicant burden and make the applications process more efficient.

Accordingly, the Board has amended § 225.12 of Regulation Y to waive the application requirement under the BHC Act and § 225.11 of Regulation Y in the case of a transaction involving the acquisition by a bank holding company if the transaction involves primarily the merger of a bank into an existing operating subsidiary bank of the acquiring bank holding company in a transaction that is reviewed by a federal banking supervisor under the Bank Merger Act. In order to qualify for this regulatory waiver, the following other criteria must also be met:

(1) The bank merger, consolidation, or asset purchase must occur simultaneously with the acquisition of the shares of the bank or bank holding company, and the bank must not be operated by the acquiring bank holding company as a separate entity other than as the survivor of the merger or consolidation;

(2) The transaction may not involve the acquisition of any nonbank company that would require prior approval under section 4 of the BHC Act (12 U.S.C. 1843);

(3) Both before and after the transaction, the bank holding company must meet the Board's Capital Adequacy Guidelines (appendices A and B);[3] and

[1] This exception is not available for transactions that involve the merger of a nonsubsidiary bank and a nonoperating subsidiary bank formed by a company for the purpose of acquiring the nonsubsidiary bank or any transaction requiring the Board's prior approval under § 225.11(e).

[2] For example, where the bank holding company is to acquire a bank as a subsidiary for a moment in time and then merge the bank into an existing subsidiary bank.

[3] Banking organizations anticipating significant growth are expected to maintain capital, including tangible capital positions, well above the minimum levels. For example, most such organizations generally must operate at capital levels ranging at least 100 to 200 basis points above the stated minimums.

(4) The acquiring bank holding company has provided written notice of the transaction to the Reserve Bank at least 30 days prior to consummation of the transaction, and the Reserve Bank has not informed the bank holding company that an application under § 225.11 is required.

Notice of a transaction under this revision would be sufficient if it contains a description of the transaction, the names of the parties, and a copy of the Bank Merger Act application filed with the primary regulator of the surviving bank. The System retains the authority to require an application under the BHC Act and § 225.11 of Regulation Y if the System determines that the transaction has a significantly adverse impact on the financial condition of the acquiring bank holding company (e.g., the level of debt of the acquiring bank holding company would increase significantly, the ability to meet cash flow needs would be significantly impacted, or other financial or managerial issues are raised), or the transaction raises other issues regarding factors which the System has primary or exclusive jurisdiction under the BHC Act.

II. Criteria for Use of 15-Day Expedited Procedure

The Board has established, in § 225.23(f) of Regulation Y, an expedited procedure for reviewing proposals by bank holding companies to make small acquisitions of nonbanking companies. Under this existing procedure, a bank holding company may, in lieu of submitting a formal application, file an abbreviated notice that includes a copy of a newspaper notice or request that the System publish notice of the application in the **Federal Register**, and may consummate the transaction generally after five days following the close of the public comment period for the proposal. The expedited procedure is available only if:

(1) The company to be acquired is engaged only in activities listed in § 225.25 of Regulation Y;

(2) Neither the book value of the assets to be acquired nor the gross consideration to be paid for the securities or assets exceeds $15 million;

(3) The bank holding company has previously received Board approval to engage in the activity involved in the acquisition; and

(4) The bank holding company meets the Board's capital adequacy guidelines.

The Board adopted this procedure in its amendments to Regulation Y in 1983. The Board's experience in reviewing small acquisitions since that time has been that few supervisory or other issues are raised by these proposals. Where a proposal presents material issues that require Board consideration, the Board has reserved the right to require the acquiring bank holding company to file a full application.

In light of this experience, the Board has determined to raise the limit on the size of an acquisition that would qualify for the expedited procedures. This revision permits bank holding companies (subject to the other criteria) to acquire nonbank companies where neither the book value of the assets to be acquired nor the gross consideration paid for the assets exceeds the lesser of $100 million or five percent of the applicant's consolidated assets.[4]

III. Nonbank Assets Acquired in the Ordinary Course of Business

Pursuant to § 225.22(c)(7) of Regulation Y, a bank holding company may, under certain circumstances, acquire nonbank assets in the ordinary course of business without filing an application if the assets to be acquired relate to activities that the bank holding company has previously received approval to conduct. The Board has interpreted the exception for transactions conducted in the ordinary course of business to permit the acquisition of less than substantially all of the assets of a company, division, or department of another company. 12 CFR 225.132. This interpretation also requires that the book value of the assets to be acquired not exceed 20 percent of the book value of the assets of the applicant in the same line of activity.

The Board has determined, based on its experience with transactions that do not qualify for the exception because the transaction exceeds 20 percent of the acquiring company's assets, to expand from 20 percent to 50 percent the relative size criteria in the Board's interpretation at § 225.132 of Regulation Y. The Board believes that such an expansion of the criteria would not materially affect the ability of the System to supervise the acquisition of nonbank assets by bank holding companies, and it would place banking organizations on a more comparable footing with nonbanking competitors in making acquisitions.

[4] The revision retains the existing provision for bank holding companies with less than $300 million in total consolidated assets that otherwise meets the criteria set forth in this subsection. These bank holding companies would continue to be able to use the expedited procedure if neither the book value of the assets to be acquired nor the gross consideration to be paid for the securities or assets exceeds $15 million.

Regulatory Flexibility Act Analysis

Pursuant to section 605(b) of the Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C. 601 *et seq.*), the Board does not believe that the amendments would have a significant adverse economic impact on a substantial number of small entities. The amendments would reduce regulatory burdens imposed by the Board's procedures on bank holding companies, and have no particular adverse effect on other entities. These amendments are expected to have a particular benefit to small bank holding companies, which are the companies that are primarily affected by the limits that have been raised or removed by these amendments.

List of Subjects in 12 CFR Part 225

Administrative practice and procedure, Banks, banking, Federal Reserve System, Holding companies, Reporting and recordkeeping requirements, Securities.

For the reasons set forth in the preamble, the Board amends title 12 of the Code of Federal Regulations, part 225, to read as follows:

PART 225—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL

1. The authority citation for part 225 continues to read as follows:

Authority: 12 U.S.C. 1817(j)(13), 1818, 1831(i), 1843(c)(8), 1844(b), 3106, 3108, 3907, 3909, 3310, and 3331-3351, and sec. 306 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (Pub. L. No. 102-242, 105 Stat. 2236 (1991)).

2. Section 225.12 is amended by redesignating paragraphs (d) heading and introductory text, (d)(1), and (d)(2) as paragraphs (d)(1) heading and introductory text, (d)(1)(i), and (d)(1)(ii), respectively, and by adding a new paragraph (d)(2) to read as follows:

§225.12 Transactions not requiring Board approval.

* * * * *

(d)(1) * * *

(2) *Certain acquisitions subject to the Bank Merger Act.* The acquisition by a bank holding company of shares of a bank or company controlling a bank as part of the merger or consolidation of the bank with a subsidiary bank (other than a nonoperating subsidiary bank) of the acquiring bank holding company, or the purchase of substantially all of the assets of the bank by a subsidiary bank (other than a nonoperating subsidiary bank) of the acquiring bank holding company, if—

(i) The bank merger, consolidation, or asset purchase occurs simultaneously with the acquisition of the shares of the bank or bank holding company, and the bank is not operated by the acquiring bank holding company as a separate entity other than as the survivor of the merger, consolidation or asset purchase;

(ii) The transaction requires the prior approval of a Federal supervisory agency under the Bank Merger Act (12 U.S.C. 1828(c));

(iii) The transaction does not involve the acquisition of any nonbank company that would require prior approval under section 4 of the Bank Holding Company Act (12 U.S.C. 1843);

(iv) Both before and after the transaction, the acquiring bank holding company meets the Board's Capital Adequacy Guidelines (appendices A and B); and

(v) The acquiring bank holding company has provided written notice of the transaction to the Reserve Bank at least 30 days prior to the transaction, and during that period, the Reserve Bank has not informed the bank holding company that an application under § 225.11 is required.

* * * * *

3. Section 225.23 is amended by revising paragraph (f)(2)(i), and by republishing paragraph (f)(2) introductory text, to read as follows:

§225.23 Procedures for applications, notices, and hearings.

* * * * *

(f) *Expedited procedure for small acquisitions*—* * *

* * * * *

(2) *Criteria for use of expedited procedure.* The procedure in this paragraph is available only if:

(i) Neither the book value of the assets to be acquired nor the gross consideration to be paid for the securities or assets exceeds the greater of:

(A) $15 million; or

(B) 5 percent of the consolidated assets of the acquiring company up to a maximum of $100 million;

* * * * *

4. Section 225.132 is amended by revising the second sentence in paragraph (c)(2) to read as follows:

§225.132 Acquisition of assets.

* * * * *

(c) * * *

(2) * * * For purposes of this interpretation, an acquisition would generally be presumed to be significant if the book value of the nonbank assets being acquired exceeds 50 percent of the book value of the nonbank assets of the holding company or nonbank subsidiary comprising the same line of activity.

* * * * *

By order of the Board of Governors of the Federal Reserve System, June 23, 1992.

William W. Wiles,

Secretary of the Board.

[FR Doc. 92–15182 Filed 6–26–92; 8:45 am]

BILLING CODE 6210–01–F

SMALL BUSINESS ADMINISTRATION

13 CFR Parts 121, 124, and 134

Procedural Regulations Concerning Appeals

AGENCY: Small Business Administration

ACTION: Final rule.

SUMMARY: The Small Business Administration (SBA) is hereby amending its regulations governing the procedure for service of process of appeals brought by Program Participants in or applicants to SBA's section 8(a) program to SBA's Office of Hearings and Appeals (OHA). Specifically, SBA will now require that a copy of the petition, including all attachments thereto, be served by certified mail, return receipt requested, on SBA's Office of General Counsel in addition to the service currently provided to SBA's Associate Administrator for Minority Small Business and Capital Ownership Development (AA/MSB&COD). Also, SBA is amending these procedural regulations to state that answers in proceedings relating to the 8(a) program must be filed at OHA no later than forty-five (45) days after the date of filing of the petition with OHA.

DATES: This rule is effective June 29, 1992.

FOR FURTHER INFORMATION CONTACT: David R. Kohler, Associate General Counsel for General Law, Office of the General Counsel, U.S. Small Business Administration, 409 Third Street, SW., Washington, DC 20416, (202) 205–6645.

SUPPLEMENTARY INFORMATION: This rule amends SBA's procedural regulations concerning appeals of the following actions relating to SBA's section 8(a) program: (1) Denial of program admission based solely on a negative finding(s) of social disadvantage, economic disadvantage, ownership or control pursuant to 13 CFR 124.206; (2) graduation pursuant to 13 CFR 124.208; (3) termination pursuant to 13 CFR 124.209; or (4) denial of a request to issue a waiver pursuant to 13 CFR 124.317. Presently, pursuant to 13 CFR 124.210, an applicant concern or Program Participant may initiate such an appeal by filing a petition, in accordance with 13 CFR part 134, with OHA. Concurrent with its OHA filing, the concern is also required to serve the AA/MSB&COD. This rule amends the regulation to require that service also be made upon SBA's Office of General Counsel. In the context of appeals relating to denials of program admission pursuant to 13 CFR 124.206 or denials of requests for waivers pursuant to 13 CFR 124.317, service will be required on SBA's Associate General Counsel for General Law. For appeals relating to graduation pursuant to 13 CFR 124.208 or termination pursuant to 13 CFR 124.209, service will be required on SBA's Associate General Counsel for Litigation.

This rule also amends SBA's regulations governing the procedures for filing and serving pleadings relating to 8(a) appeals at OHA. Section 134.12 of title 13 CFR, states that, in proceedings relating to the 8(a) program, answers shall be served and filed no later than 45 days after service of the petition. This rule amends the regulation to require that an answer be filed and served no later than 45 days from the date the petition was filed with SBA's Office of Hearings and Appeals.

Moreover, § 134.14(a) is amended (as is § 121.1704 for appeals from formal size determinations) to specify the changed address for filings with the Office of Hearings and Appeals.

Compliance With Executive Orders 12291, 12612, and 12778, the Regulatory Flexibility Act (55 U.S.C. 601, et seq.), and the Paperwork Reduction Act (44 U.S.C. Chap. 35)

Due to the fact that this rule governs matters of agency organization, practice, and procedure and makes no substantive change to the current regulation, SBA is not required to determine if it constitutes a major rule for purposes of Executive Order 12291, to determine if it has a significant economic impact on a substantial number of small entities pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), to do a Federalism Assessment pursuant to Executive Order 12612, or to determine if this rule imposes an annual recordkeeping or reporting requirement on 10 or more persons under the Paperwork Reduction Act (44 U.S.C. ch. 35).

For purposes of E.O. 12778, SBA certifies that this rule is drafted, to the extent practicable, in accordance with the standards set forth in section 2 of that Order.

SBA is publishing this regulation governing agency organization, practice,

and procedure as a final rule without opportunity for public comment pursuant to 5 U.S.C. 553(b)(A).

List of Subjects

13 CFR Part 121

Administrative practice and procedure; Government procurement; Grant programs—business; Loan programs—business; Small business

13 CFR Part 124

Government procurement; Hawaiian natives; Tribally-owned concerns; Minority business; Technical Assistance

13 CFR Part 134

Administrative practice and procedure; Organization and function (Government agencies).

For the reasons set forth above, parts 121, 124, and 134 of title 13, Code of Federal Regulations, are amended as follows:

PART 121—[AMENDED]

1. The authority citation for part 121 continues to read as follows:

Authority: Sections 3(a) and 5(b)(6) of the Small Business Act, as amended (15 U.S.C. 632(a), 634(b)(6)), and Pub. L. 100–656, 102 Stat. 3853 (1988).

2. Section 121.1704 is revised to read as follows:

§ 121.1704 Where to appeal.

Written Notices of Appeal conforming to § 121.1706 may be mailed or personally delivered to the Office of Hearings and Appeals at the following address: Office of Hearings and Appeals, Small Business Administration, suite 402, 1250 23rd Street, NW., Washington, DC 20037. The date of filing shall be the date the pleading is received by the Office.

PART 124—[AMENDED]

3. The authority citation for part 124 continues to read as follows:

Authority: 15 U.S.C. 634(b)(6), 636(j), 637(a), 637(d) and Public Law 99–661, sec. 1207, Public Law 100–656, and Public Law 101–37.

4. Section 124.210(b) is amended by removing the last sentence and adding four sentences in its place to read as follows:

§ 124.210 Appeals to SBA's Office of Hearings and Appeals.

* * * * *

(b) * * * Concurrent with its filing with OHA, the concern shall also serve the AA/MSB&COD and SBA's Office of General Counsel with a copy of the petition, including attachments. In the context of appeals relating to denials of program admission pursuant to § 124.206 or denials of requests for waivers pursuant to § 124.317, service on the Office of General Counsel shall be made by personal delivery or certified mail, return receipt requested, to SBA's Associate General Counsel for General Law. For appeals relating to graduation pursuant to § 124.208 or termination pursuant to § 124.209, service on the Office of General Counsel shall be made by personal delivery or certified mail, return receipt requested, to SBA's Associate General Counsel for Litigation. Service should be addressed to the AA/MSB&COD and either Associate General Counsel at the Small Business Administration, 409 3rd Street, SW., Washington, DC 20416.

* * * * *

5. Section 124.211(d) is amended by removing the last sentence and adding two sentences in its place to read as follows:

§ 124.211 Suspension of program assistance.

* * * * *

(d) * * * Concurrent with its filing with OHA, the concern shall also serve the AA/MSB&COD and SBA's Office of General Counsel with a copy of the petition, including attachments. Service on the Office of General Counsel shall be made by personal delivery or certified mail, return receipt requested, to SBA's Associate General Counsel for General Law.

* * * * *

PART 134—[AMENDED]

6. The authority citation for part 134 continues to read as follows:

Authority: 15 U.S.C. 634(b)(6) and Public Law 100–56, secs. 209, 409 (102 Stat. 3853).

7. Section 134.12(a) is amended by removing the last sentence and adding two sentences in its place to read as follows:

§ 134.12 Answer.

(a) *Time for filing.* * * * In proceedings relating to the 8(a) program, the answer to a petition, order to show cause or notice shall be filed with the Office of Hearings and Appeals and served in accordance with § 134.14 no later than 45 days after the filing of the petition, order to show cause, notice, or any amendment thereto, with SBA's Office of Hearings and Appeals, and shall otherwise be in accordance with the requirements of this section. The Office of Hearings and Appeals shall provide notice that the petition, order to show cause, notice, or amendment thereto has been docketed, including the date of such docketing, to SBA's Office of General Counsel.

* * * * *

8. Section 134.14 is amended by revising paragraph (a) and by revising the second sentence of paragraph (b) to read as follows:

§ 134.14 Filing and service of pleadings.

(a) *Filing.* Except as otherwise specifically provided in this part, an original and one copy of all pleadings shall be filed by mail or personal delivery with the Office at the following address: Office of Hearings and Appeals, Small Business Administration, suite 402, 1250 23rd Street, NW., Washington, DC 20037. The date of filing shall be the date the pleading is received by the Office.

(b) *Service.* * * * Service shall be complete upon personal delivery, upon mailing first class postage prepaid, or, where specified, upon mailing certified mail, return receipt requested, to the record address, unless otherwise ordered by the judge. * * *

* * * * *

Dated: June 2, 1992.

Patricia Saiki,

Administrator.

[FR Doc. 92–15100 Filed 6–26–92; 8:45am]

BILLING CODE 8025–01–M

DEPARTMENT OF COMMERCE

Office of the Secretary

15 CFR Part 4

[Docket No. 920523–2123]

Public Information; Appeals From Initial Determinations and Initial Denial Officials

AGENCY: U.S. Department of Commerce.

ACTION: Final rule.

SUMMARY: The Department of Commerce is amending its Freedom of Information Act (FOIA) regulations, 15 CFR part 4, to authorize the Assistant General Counsel for Administration to decide FOIA appeals. Also, the Department is adding two persons to the list of officials authorized to make initial denials for requests for records. These amendments are necessary to expedite the appeal process.

DATES: June 29, 1992.

FOR FURTHER INFORMATION CONTACT: Ms. Gerri LeBoo at 202–377–4115.

SUPPLEMENTARY INFORMATION: The Department is amending § 4.8 and appendix C of its Freedom of Information Act regulations, 15 CFR part

4. Section 4.8 is amended to authorize the Assistant General Counsel for Administration to decide appeals from initial determinations, with the exception of appeals for records which were initially denied by the Assistant General Counsel for Administration, which will be decided by the General Counsel. In appendix C, two persons are added to the list of officials authorized to make initial denials of requests for records.

Rulemaking Requirements

The Department determined because this rule relates solely to agency management and organization, it is exempt from the requirements of Executive Order 12291 (section 1(a)(2)).

This rule does not contain a collection of information requirement subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

Because this rule relates solely to agency management and organization, the notice and comment and delayed effective date requirements of the Administrative Procedure Act are not applicable (5 U.S.C. 553(a)(2)).

Because a notice of proposed rulemaking is not required by section 553 of the Administrative Procedure Act or by any other law, a Regulatory Flexibility Analysis is not required under the Regulatory Flexibility Act (5 U.S.C. 603 *et seq.*).

List of Subjects in 15 CFR Part 4

Freedom of information, Public information.

For the reasons set forth in the preamble, 15 CFR part 4 is amended as follows:

1. The authority citation for part 4 continues to read as follows:

Authority: 5 U.S.C. 301, 5 U.S.C. 552, 5 U.S.C. 553, Reorganization Plan No. 5 of 1950; 31 U.S.C. 3717.

PART 4—[AMENDED]

2. Section 4.8 is amended by deleting the words "General Counsel" and adding in their place "Assistant General Counsel for Administration" in paragraphs (b) (4 places), (c), (e), and (g), and by adding two sentences at the end of paragraph (b) to read as follows:

§ 4.8 Appeals from initial determinations or untimely delays.

* * * * *

(b) * * * All appeals shall be decided by the Assistant General Counsel for Administration with the exception of appeals for records which were initially denied by the Assistant General Counsel for Administration. Appeals initially denied by the Assistant General Counsel for Administration shall be decided by the General Counsel at the address listed in this paragraph.

* * * * *

Appendix C—Officials Authorized to Make Initial Denials of Requests for Record

3. Appendix C is amended by adding "Executive Secretariat, Director" as the first listing under Office of the Secretary, and by adding "Director for Administration" as the third listing under Export Administration.

Dated: June 23, 1992.

Sonya G. Stewart,

Director for Federal Assistance and Management Support.

[FR Doc. 92-15189 Filed 6-26-92; 8:45 am]

BILLING CODE 3510-FA-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release Nos. 34-30850; 35-25560; IC-18804]

RIN 3235-AB14

Employee Benefit Plan Exemptive Rules Under Section 16 of the Securities and Exchange Act of 1934

AGENCY: Securities and Exchange Commission.

ACTION: Extension of phase-in period for rule 16b-3.

SUMMARY: The Commission today is extending the phase-in period for compliance with the substantive conditions of new rule 16b-3 regarding employee benefit plan transactions under the Securities and Exchange Act of 1934 until September 1, 1993 because further rulemaking is contemplated.

DATES: The Phase-in period for compliance with new rule 16b-3 is extended from September 1, 1992 until September 1, 1993.

FOR FURTHER INFORMATION CONTACT: Felicia Smith, (202) 272-2573, Division of Corporation Finance.

SUPPLEMENTARY INFORMATION: On February 8, 1991, (56 FR 7242, Feb. 21, 1991), the Commission adopted comprehensive revisions to the rules under section 16 [1] of the Securities and Exchange Act of 1934 ("Exchange Act").[2] The new regulatory scheme generally became effective on May 1, 1991, but a 16 month phase-in period was provided with respect to specified rules affecting employee benefit plans, in order to give registrants ample time to review the rule changes and amend their plans accordingly.[3] The Adopting Release provided that registrants could elect to continue relying on the exemptions from section 16(b) of the Exchange Act [4] afforded by former rules 16a-8(b),[5] 16a-8(g)(3),[6] and 16b-3 [7] after May 1, 1991, but would be required to adopt the substantive conditions of new rule 16b-3 [8] by September 1, 1992.[9]

The phase-in period applies only to the substantive conditions of the former and new rules governing employee benefit plans, not to the new reporting requirements under section 16(a) of the Exchange Act.[10] Therefore, transactions exempt from section 16(b) under either the former or the new rules must be reported in accordance with the new requirements.[11]

Since the adoption of the new rules under Section 16, a number of interpretive issues relating to the aspects of the new regulatory scheme affecting employee benefit plans, as well as the phase-in period, have been addressed by the staff of the Division of Corporation Finance.[12] However, the

[1] 15 U.S.C. 78p (1988).

[2] 15 U.S.C. 78a *et seq.* (1988).

[3] Exchange Act Release No. 28869 (February 8, 1991) [56 FR 7242] ("Adopting Release"). See Section VII for transition provisions generally and Section VII.C for transition provisions relating to employee benefit plans. See also Section VII.B for transition provisions relating to derivative securities and cash-only instruments. Those provisions became effective on May 1, 1991, and were not subject to the phase-in period. Note that if an option is acquired pursuant to former rule 16b-3 during the phase-in period, the exemption for the exercise afforded by new rule 16b-6(b) will be available only if the securities underlying that option are not sold within six months of the option grant. See *Cravath, Swaine & Moore*, Q. 2 (May 6, 1991).

[4] 15 U.S.C. 78p(b) (1988)

[5] 17 CFR 240.16a-8(b) (1990).

[6] 17 CFR 240.16a-8(g)(3) (1990).

[7] 17 CFR 240.16b-3 (1990).

[8] 17 CFR 240.16b-3 (1991).

[9] The Adopting Release specified that during the phase-in period, registrants may not elect to comply with selected provisions of either the former or new rules, and may not rely on new rule 16b-3 with respect to some employee benefit plans and the former rules with respect to others. Rather, when a registrant chooses to comply with new rule 16b-3 with respect to a new or existing plan, all of the registrant's plans must be conformed to the new rules in order for an exemption from section 16(b) to be available.

[10] 15 U.S.C. 78p(a) (1988).

[11] See rule 16a-3 (f) and (g) [17 CFR 240.16a-3 (f) and (g) (1991)].

[12] See Exchange Act Release No. 29131 (April 26, 1991) [56 FR 19925], which contains interpretations

Continued

Commission intends to engage in further rulemaking in order to streamline the reporting requirements and exemptions applicable to employee benefit plan transactions. Accordingly, the phase-in period for new Rule 16b–3 is extended until September 1, 1993. Registrants that have elected to have their plans comply with new Rule 16b–3 may, if they wish, change this election and return to compliance with former rules 16a–8(b), 16a–8(g)(3) and 16b–3 until the end of the phase-in period.

By the Commission.

Dated: June 23, 1992.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92–15203 Filed 6–26–92; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 0

[Docket No. R–92–1574; FR–2911–F–02]

RIN 2501–AB18

Standards of Conduct; Final Amendments

AGENCY: Office of the Secretary, HUD.

ACTION: Final rule.

SUMMARY: This final rule amends the Department's Standards of Conduct regulations at 24 CFR part 0, subpart A, which specify the responsibilities of the Department's ethics officials under the Standards of Conduct Program. The amendments made by this rule implement the Secretary's division of program responsibilities between the General Counsel, the designated Agency Ethics Official, and the Assistant Secretary for Administration, the Alternate Agency Ethics Official. The rule provides for the Assistant Secretary for Administration to carry out his or her program responsibilities through the Department's newly created Office of Ethics, which reports directly to the Assistant Secretary for Administration. This rule also implements the reorganization of the management of the Standards of Conduct Program at the Regional level. The specific revisions made by this rule are discussed more fully in the Supplementary Information section below.

EFFECTIVE DATE: July 29, 1992.

FOR FURTHER INFORMATION CONTACT: Arnold J. Haiman, Director, Office of Ethics, room 2158, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708–3815 (voice/TDD). (This is not a toll-free telephone number.)

SUPPLEMENTARY INFORMATION:

Background

Executive Order 12674 of April 12, 1989, Principles of Ethical Conduct for Government Officers and Employees, directed each Federal agency head to ensure that the rank, responsibilities, authority, staffing and resources of the Designated Agency Ethics Official were adequate to ensure the effectiveness of each Federal agency's ethics program. Within HUD, the responsibility for operation of the Department's ethics or "Standards of Conduct" Program was delegated to the General Counsel, who serves as the Department's Designated Agency Ethics Official. The Assistant Secretary for Administration serves as the Alternate Agency Ethics Official. (See 55 FR 6051, February 21, 1990.)

In January 1990, the Secretary of HUD approved the establishment of a free-standing, independent Office of Ethics within the Department's Office of Administration. The Secretary also approved a division of responsibilities for administration and operation of the Standards of Conduct program between the General Counsel and the Assistant Secretary for Administration. Under this division of responsibilities, the General Counsel would continue to provide all legal advice and assistance required for the administration of the Standards of Conduct Program. The Assistant Secretary for Administration would be responsible for coordinating and managing the program. This authority includes developing, operating and monitoring all Standards of Conduct Program systems; developing and supervising the operation of Standards of Conduct education and training programs; and providing counseling to Department employees, with assistance, when appropriate, from the Office of General Counsel. The Assistant Secretary for Administration would carry out these duties through the Office of Ethics.

The Secretary's plan for reorganization of responsibility for administration of the Standards of Conduct program also provided for reorganization of certain program duties at the Regional level. Under this plan, the Regional Directors of Administration would have responsibility for implementing the Standards of Conduct program in the Field, as prescribed by the Office of Ethics. The Regional Counsel would continue to serve as Deputy Counselors.

On February 3, 1992 (57 FR 3967), the Department published, for public comment, a proposed rule that set forth the proposed organizational changes in the Department's administration of its Standards of Conduct Program. As noted in the February 3, 1992 proposed rule, only the regulations at 24 CFR part 0, subpart A, which describe the responsibilities of the Department's ethics officials, were proposed to be revised. By the end of the comment period on April 3, 1992, the Department had not received any comments on the proposed rule.

Accordingly, the Department is adopting the proposed amendments to 24 CFR part 0, subpart A without change. The amendments made to 24 CFR part 0, subpart A by this rule are as follows:

Section 0.735–101, Purpose, is revised to state that all questions about, or requests for, interpretations of regulations governing the Standards of Conduct Program may be directed not only to the Department's Standards of Conduct Counselor, or a Deputy Counselor, but also to the Office of Ethics.

Section 0.735–102, Definitions, is revised to include a definition for "Disclosure Form" and to list the definitions in alphabetical order.

Section 0.735–104, Interpretation and Advisory Service, is retitled "Responsibilities of Ethics Officials", and is revised to reflect the new division of responsibilities of the Department's ethics officials under the Standards of Conduct.

The purpose of this rule is to implement the Secretary's plan to vest responsibility for the operation of the Department's Standards of Conduct Program in the newly formed, free-standing Office of Ethics.

Other Matters

Coordination

In accordance with the requirements of 5 CFR 735.104, the amendments made by this rule have been reviewed by the Office of Personnel Management and the Office of Government Ethics.

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of the shareholder approval requirement applicable to both former and new Rule 16b–3, as well as technical amendments to the revised rules. See also the Index of letters interpreting the new Section 16 rules prepared by the staff of the Division of Corporation Finance, which organizes letters by subject matter. The Index is updated on approximately the first day of every month, and copies may be obtained at the Public Reference Room, Securities and Exchange Commission, 450 Fifth Street, NW., room 1024, Washington, DC 20549. The Division no longer will take a position with respect to whether a plan complies with former or new Rule 16b–3 generally. Further, questions of first impression arising under former rule 16b–3 will not be addressed.

Environmental Review

In accordance with 40 CFR 1508.4 of the regulations of the Council on Environmental Quality and 24 CFR 50.20(b) of the HUD regulations, the policies and procedures set forth in this document are determined not to have the potential of having a significant impact on the quality of the human environment, and, therefore, are categorically excluded the requirements of the National Environmental Policy Act of 1969. Accordingly, a Finding of No Significant Impact is not required.

Impact on Economy

This rule does not constitute a "major rule" as that term is defined in section 1(b) of the Executive Order on Federal Regulation issued by the President on February 17, 1981. Analysis of the rule indicates that it does not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Impact on Small Entities

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed and approved this rule, and in so doing certifies that this rule will not have a significant economic impact on small entities. This rule only affects former, current and prospective Department employees, with respect to matters of standards of conduct as Department employees.

Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that the policies contained in this rule will not have substantial direct effects on States or their political subdivisions, or the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government. This rule only would affect former, current, and prospective Department employees, with respect to matters of standards of conduct as department employees. As a result, the rule is not subject to review under the Order.

Executive Order 12606, The Family

The General Counsel, as the Designated Official under Executive Order 12606, The Family, has determined that this rule does not have potential for significant impact on family formation, maintenance, and general well-being, and, thus, is not subject to review under the Order. No change in existing HUD policies or programs will result from promulgation of this rule, as those policies and programs relate to family concerns.

Regulatory Agenda

This rule was listed as sequence number 1094 in the Department's Semiannual Agenda of Regulations published on April 27, 1992 (57 FR 16804, 16811) pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

List of Subjects in 24 CFR Part 0

Administrative practice and procedure, Conflict of interests.

Accordingly, 24 CFR part 0, subpart A is amended as follows:

PART 0—STANDARDS OF CONDUCT

1. The authority citation for part 0 is revised to read as follows:

Authority: 5 U.S.C. 301; 18 U.S.C. 201–212; E.O. 11222, E.O. 12674, 3 CFR, 1964–1965 Comp. P. 306; 5 CFR 735.101–412.

2. Section 0.735–101 is revised to read as follows:

§ 0.735–101 Purpose.

The maintenance of high standards of honesty, integrity and impartiality by Government employees is essential for the proper performance of the public business and the maintenance of confidence by citizens in their Government. To inform the public and Department staff as to the specific application of this general principle, this part sets forth the Department's regulations prescribing standards of conduct for, and governing the submission of statements of employment and financial interests by, its employees. All questions concerning, or requests for, opinions should be directed to the Department Counselor or to a Deputy Counselor, or to the Office of Ethics in Headquarters.

3. Section 0.735–102 is revised to read as follows:

§ 0.735–102 Definitions.

Business entity means a corporation, company, firm, partnership, society, joint stock company, or any other organization or institution having a business purpose including, but not limited to:

(1) Non-profit organizations or institutions which own or operate housing units, and

(2) Educational and other institutions doing research and development or related work involving grants or other types of financial assistance from, or contracts with, the Government.

Department means the Deartment of Housing and Urban Development.

Disclosure Forms means both Public and Confidential Disclosure Forms.

Employee means an employee of the Department other than a Special Government employee.

Person means an individual human being.

Special Government employee means a person who is retained, designated, appointed or employed by the Department to perform temporary duties, with or without compensation, for not more than 130 days, during any period of 365 consecutive days, either on a full-time or intermittent basis, as defined in 18 U.S.C. 202.

4. Section 0.735–104 is revised to read as follows:

§ 0.735–104 Responsibilities of Ethics Officials.

(a) *General Counsel.* The General Counsel is the Department's Designated Agency Ethics Official and the Department's Standards of Conduct Counselor (Department Counselor). As the Designated Agency Ethics Official, the General Counsel has primary responsibility for the Department's Standards of Conduct program, and is vested with the duties and responsibilities of a designated agency ethics official as set forth in 5 CFR 2638.203 of the government-wide ethics regulations promulgated by the Office of Government Ethics.

(b) *Assistant Secretary for Administration.* The Assistant Secretary for Administration is the Alternate Agency Ethics Official. The Assistant Secretary for Administration is responsible for the day-to-day coordination and management of the Standards of Conduct program. The Assistant Secretary for Administration shall carry out his or her responsibilities under the Standards of Conduct Program through the Department's Office of Ethics.

(c) *Director of the Office of Ethics.* Under the direction of the Assistant Secretary for Administration, the Director of the Office of Ethics will coordinate and manage the Department's Standards of Conduct program. The Director of the Office of Ethics will undertake the day-to-day

operation of the Standards of Conduct program.

(d) *Regional Director of Administration.* The Regional Director of Administration, in each Regional Office, is responsible for implementing the Standards of Conduct program in the Field, as directed by the Office of Ethics.

(e) *Regional Counsel.* The Regional Counsel, in each Regional Office, is responsible for undertaking those Standards of Conduct program duties, as directed by the Office of General Counsel.

(f) *Deputy Counselors.* The Associate General Counsel for Equal Opportunity and Administrative Law, the Assistant General Counsel for Personnel and Ethics Law, all Regional Counsels, the Director of the Office of Ethics, and any other employees designated by the Department Counselor, shall serve as the Department's Deputy Standards of Conduct Counselors (Deputy Counselors). The Deputy Counselors assist the General Counsel, as the Designated Agency Ethics Official, in carrying out responsibilities with respect to the Department's Standards of Conduct program and in providing advice to former, current and prospective Department employees regarding questions of conflicts of interest and on other matters relating to Standards of Conduct.

(g) *The Inspector General.* The Inspector General is the Deputy Counselor for employees of the Office of Inspector General. The Inspector General shall perform all necessary duties involving the Standards of Conduct program for employees of the Office of Inspector General. These duties include the collection, review and maintenance of all Public and Confidential Financial Disclosure Forms submitted by employees of the Office of Inspector General. The Inspector General shall provide advice and guidance to all former, current and prospective employees of the Office of Inspector General regarding matters related to the Standards of Conduct. Legal advice to the Office of Inspector General regarding conflicts of interest and Standards of Conduct shall be provided by the Office of the Associate General Counsel for Program Enforcement.

Dated: June 19, 1992.

Jack Kemp,

Secretary.

[FR Doc. 92-15156 Filed 6-26-92; 8:45am]

BILLING CODE 4210-32-M

Office of the Assistant Secretary for Public and Indian Housing

24 CFR Parts 905 and 968

[Docket No. R-92-1531; FR-2980-C-03]

RIN 2577-AB06

Public and Indian Housing Comprehensive Grant Program and Amendments to the Comprehensive Improvement Assistance Program

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Final rule; technical amendments.

SUMMARY: This document makes certain editorial amendments to the Department's final rule published in the **Federal Register** on February 14, 1992 (57 FR 5514). The February 14, 1992 final rule amended 24 CFR parts 905, 968, and 990 to establish the regulations for the new Comprehensive Grant program, and to revise the existing regulations of the Comprehensive Improvement Assistance program (CIAP).

EFFECTIVE DATE: June 29, 1992.

FOR FURTHER INFORMATION CONTACT: For Indian housing issues, Dominic Nessi, Director, Office of Indian Housing, Public and Indian Housing, room 4140, telephone (202) 708-1015.

For public housing issues, Janice Rattley, Director, Office of Construction, Rehabilitation and Management, Public and Indian Housing, room 4136, telephone (202) 708-1800.

The address for each of these contacts is the Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Hearing-or speech-impaired individuals may call the TDD number for the Office of Public and Indian Housing, (202) 708-0850. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: On February 14, 1992 (57 FR 5514), the Department published in the **Federal Register** a final rule which amended 24 CFR parts 905, 968, 990 to establish the new Comprehensive Grant program for public housing agencies (PHAs) and Indian Housing authorities (IHAs) that own or operate 500 or more public or Indian housing units. The February 14, 1992 final rule also revised the existing Comprehensive Improvement Assistance Program (CIAP) to limit its applicability to PHAs and IHAs that own or operate fewer than 500 public or Indian housing units.

Since the final rule was published, the Department discovered related editorial errors in §§ 905.602, 905.627, 968.102 and 968.225.

Section 905.627 sets forth the regulations governing homebuyer participation in the Indian housing CIAP program. This section provides in paragraph (b)(1) that the IHA shall inform each homebuyer family that to participate, the family must be in compliance with its financial obligations under its homebuyer agreement. However, the obligation to be in compliance with all financial obligations under the family's homebuyer agreement is applicable to both the Indian Housing CIAP program and the Indian Housing Comprehensive Grant program, and was intended to be included in § 905.602 of the "General Provisions" of subpart I (§§ 905.600-905.603) of part 905.

This document therefore corrects this error by removing this paragraph from § 905.627, and inserting in § 905.602.

Section 968.225 sets forth the regulations governing homebuyer participation in the public housing CIAP program, and contains language identical to that contained in § 905.627. As with § 905.627, it was intended that the February 14, 1992 final rule remove paragraph (b)(1) from § 968.225 (which is identical to paragraph (b)(1) of § 905.627) and insert this paragraph in § 968.102 of the "General" provisions of part 968, to make this paragraph applicable to both the public housing CIAP program and the public housing Comprehensive Grant program. It was discovered that not only did the February 14, 1992 final rule fail to make this revision, but that the entire § 968.225 was inadvertently omitted from the rule.

This document therefore corrects the editorial omissions found in §§ 906.602, 905.627, 968.102 and 968.225, as discussed above.

List of Subjects

24 CFR Part 905

Aged, Grant programs—housing and community development, Grant programs—Indians, Handicapped, Indians, Loan programs—housing and community development, Loan programs—Indians, Public housing, Reporting and recordkeeping requirements.

24 CFR Part 968

Grant programs—housing and community development, Loan programs—housing and community development, Public housing, Reporting and recordkeeping requirements.

Accordingly, the following amendments are made to 24 CFR parts 905 and 968:

PART 905—INDIAN HOUSING PROGRAMS

1. The authority citation for 24 CFR part 905 continues to read:

Authority: 42 U.S.C. 1437aa, 1437bb, 1437cc, 1437ee; 25 U.S.C. 450e(b); 42 U.S.C. 3535(d).

2. Section 905.602 is amended by adding a paragraph (d) to read as follows:

§ 905.602 Special requirements for Turnkey III and Mutual Help developments.

* * * * *

(d) In order to participate, the homebuyer must be in compliance with his financial obligations under its homebuyer agreement.

3. Section 905.627(b) is amended by revising paragraph (b) to read as follows:

§ 905.627 Homebuyer participation.

* * * * *

(b) The IHA shall inform each homebuyer family that:

(1) It will have an opportunity to express its views and preferences with respect to the modernization of its home;

(2) The purchase price and the amortization period will be increased as provided in § 906.602;

(3) It will have an opportunity to participate in the final inspection of the work to determine completion in accordance with the requirements; and

(4) Participation in the program is optional.

* * * * *

PART 968—PUBLIC HOUSING MODERNIZATION

4. The authority citation for 24 CFR part 968 continues to read as follows:

Authority: 42 U.S.C. 1437d, 1437l; 42 U.S.C. 3535d.

5. Section 968.102 is amended by adding a paragraph (d) to read as follows:

§ 968.102 Special requirements for Turnkey III developments.

* * * * *

(d) In order to participate, the homebuyer must be in compliance with its financial obligations under its homebuyer agreement.

6. Section 968.225 is amended by revising paragraph (b) to read as follows:

§ 968.225 Homebuyer participation.

* * * * *

(b) The PHA shall inform each homebuyer family that:

(1) It will have an opportunity to express its views and preferences with respect to the modernization of its home;

(2) The purchase price and the amortization period will be increased as provided in § 968.102;

(3) It will have an opportunity to participate in the final inspection of the work to determine completion in accordance with the requirements; and

(4) Participation in the program is optional.

* * * * *

Dated: June 23, 1992.

Joseph G. Schiff,

Assistant Secretary for Public and Indian Housing.

[FR Doc. 92-15155 Filed 6-26-92; 8:45 am]

BILLING CODE 4210-33-M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Parts 70 and 75

RIN 1219-AA11

Safety Standards for Underground Coal Mine Ventilation; Correction

AGENCY: Mine Safety and Health Administration (MSHA), Labor.

ACTION: Final rule; corrections.

SUMMARY: This document corrects errors in the safety standards for underground coal mine ventilation final rule that appeared in the **Federal Register** on May 15, 1992 (57 FR 20868).

EFFECTIVE DATE: August 16, 1992.

FOR FURTHER INFORMATION CONTACT: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances. MSHA, phone (703) 235-1910.

SUPPLEMENTARY INFORMATION: On May 15, 1992, MSHA published a final rule to revise its safety standards for underground coal mine ventilation. This document corrects the errors in that rule.

1. On page 20905, in the first column, in the 3rd paragraph, the 3rd line from the bottom of the page, "August 16, 1992" should read "September 16, 1992".

2. On page 20905, in the second column, in the first line "August 15, 1992" should read "September 15, 1992".

3. On page 20917, in § 75.323(c)(2), in the second column, the 16th line from the top of the page, "245" should be removed.

Dated: June 23, 1992.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 92-15140 Filed 6-26-92; 8:45 am]

BILLING CODE 4510-43-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 141 and 142

[FRL-4146-7]

Drinking Water Regulations: Maximum Contaminant Level Goals and National Primary Drinking Water Regulations for Lead and Copper

AGENCY: Environmental Protection Agency.

ACTION: Final rule; correcting amendments.

SUMMARY: EPA is correcting errors in the text of the national primary drinking water regulations for lead and copper adopted under SDWA that appared in the **Federal Register** on June 7, 1991 (56 FR 26460) and the Phase II regulations for 26 synthetic organic chemicals (SOCs) and seven inorganic chemicals (IOCs) that appeared in the **Federal Register** on January 30, 1991 (56 FR 3526).

EFFECTIVE DATE: The changes in 40 CFR 141.86 to 141.91 become effective on June 29, 1992. The changes in 40 CFR 141.80 to 141.85 become effective on December 7, 1992. The changes in 40 CFR 142.62 become effective on July 30, 1992.

FOR FURTHER INFORMATION CONTACT: Jeff Cohen, Office of Ground Water and Drinking Water (WH-550), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460 (202) 260-5456, or call the U.S. EPA Safe Drinking Water Hotline between 8:30 a.m. to 5 p.m. Eastern Standard Time, Monday through Friday excluding Federal holidays, by telephoning toll-free 1-800-426-4791 nationwide.

SUPPLEMENTARY INFORMATION:

On June 7, 1991 the United States Environmental Protection Agency promulgated maximum contaminant level goals (MCLGs) and national primary drinking water regulations (NPDWRs) for lead and copper (56 FR 26460). On January 30, 1991 the United States Environmental Protection Agency promulgated MCLGs and NPDWRs for 26 synthetic organic chemicals (SOCs) and seven inorganic chemicals (IOCs). The regulatory text that appears in the Code of Federal Regulations contains minor errors or omissions in the monitoring, treatment technique, and reporting requirements. This notice corrects those errors and clarifies the regulatory requirements under the rule.

Corrections to NPDWRs for Lead and Copper Published on June 7, 1991 (56 FR 26460)

Section 141.80(a)(2) of the final rules set forth the effective dates of the regulations. The Agency intended to have the provisions of 40 CFR 141.80 become effective on December 7, 1992. In a July 15, 1991 correction to the final rules (56 FR 32113), the Agency corrected errors in § 141.80(a)(2) regarding the effective dates for other sections of the rules. The July 15, 1991 notice, however, failed to include an effective date for § 141.80. This notice corrects the language of § 141.80(a)(2) to include the appropriate date.

Section 141.84 of the final rule requires all water systems that continue to exceed the lead action level after installing optimal corrosion control treatment, and, if necessary, source water treatment, to replace all lead service lines. As discussed in the preamble to the final rule (56 FR 26521), the Agency intended the lead service line replacement requirements to be triggered on the basis of first draw tap water samples, and not lead service line samples. Thus the Agency intended to allow any system that subsequently meets the lead action level in first draw tap water samples to cease replacing its lead service lines. Section 141.84(g) of the rule, however, inadvertently states that any water system meeting the lead action level in lead service line samples could cease replacing lead service lines. This notice corrects the language in § 141.84(g) of the regulation to clarify that systems must meet the lead action level in first draw tap water samples, rather than lead service line samples, in order to cease replacing lead service lines.

The final rule requires all public water systems that exceed the lead action level to deliver a public education program in accordance with the requirements in § 141.85. The content of the printed materials that must be sent to all consumers receiving water from such systems includes information on the requirements of this regulation, the health effects of lead, the sources of lead in drinking water, and steps consumers can take to reduce their exposure to lead in drinking water. The required public education language in § 141.85(a)(1) of the regulation incorrectly states that public water systems must replace lead service lines "that contribute lead concentrations of 15 ppb or more." Because systems are required under § 141.84 to replace lead service lines where the level exceeds 15 ppb, the Agency intended the public education material to state that water systems must replace lead service lines "that contribute to lead concentrations of more than 15 ppb." Today's notice corrects this error.

In addition, the printed material each public water system must deliver to its consumers includes the name and phone number of municipal and county agencies that can provide consumers with information on the community's water supplier and the local laboratories qualified to conduct lead analyses. Section 141.85(a)(4)(iv)(B) of the regulation contains a minor typographical error, (the regulation refers to "city of county departments" instead of "city or county departments") which is corrected by this notice.

Section 141.86(a)(9) of the final rule requires each public water system that contains lead service lines to collect 50 percent of the first draw samples it collects during each monitoring period from sites that contain lead plumbing and 50 percent of the first draw samples it collects during each monitoring period from sites served by lead service lines. As explained in the preamble (56 FR 26521), the Agency intended that all of the lead and copper tap water samples collected during each monitoring period be first draw tap water samples. Section 141.86(a)(9) of the urle mistakenly states that a water system must collect lead service line samples, rather than first draw samples, from those sites served by lead service lines. This notice corrects the language in § 141.86(a)(9) of the regulation to clarify tht systems must collect first draw from all targeted sampling sites during each monitoring period.

Section 141.86 of the final rule requires all public water systems to collect first draw tap water samples from residences that contain the most recently installed lead plumbing materials prior to the lead ban becoming effective. These samples must be one-liter in volume and reside in the interior plumbing of each structure for at least six hours. As discussed in the preamble to the final rule (56 FR 26519, EPA 1990L) the Agency intended that first draw samples, which are not acidified immediately, stand in the original one-liter container for at least 28 hours after acidification to insure that all of the lead has dissolved. The final rule inadvertently omits a sentence from § 141.86(b)(2) of the regulation informing public water systems of this requirement. This notice corrects that error.

As discussed in the preamble to the final rule (56 FR 26522), all public water systems serving 3,300 or fewer people begin tap water sampling on July 1, 1993. EPA is correcting a typographical error that appears in the table in § 141.86(d)(1). The last "system size" entry in the table currently reads "3,300". This entry should read "≤3,300". This notice corrects this error.

As discussed in the preamble to the final rule (56 FR 26524), the Agency intended to allow all small and medium-size water systems that meet the lead and copper action level during two consecutive six-month monitoring periods to reduce the number and frequency of lead and copper tap water sampling. In all such instances EPA believes these water systems have installed optimal corrosion control treatment, and are providing minimally corrosive water to their customers. Section 141.86(d)(1)(ii)(B) inadvertently states that small and medium-size water systems shall collect lead and copper tap water samples until they meet the lead or copper action level during two consecutive six-month monitoring periods. This notice corrects this error.

As discussed in the preamble to the final rule (56 FR 26526), the Agency intended to require all small and medium-size water systems that exceed the lead or copper action level to collect water quality parameter samples during the same monitoring period in which the exceedance occurred. The Agency intended this requirement to apply to small and medium-size systems during all monitoring periods in which they exceed an action level, including reduced monitoring periods. This notice therefore adds language to § 141.86(d)(4)(v) of the regulation to clarify that small and medium-size water systems exceeding an action level while collecting lead and copper tap water samples at a reduced number and frequency must collect water quality parameter samples.

Section 141.87(e)(2) of the final rule allows a public water system that maintains state-specified water quality parameters in the distribution system for three consecutive years—six consecutive six-month monitoring periods—to reduce the frequency of water quality parameter monitoring from biannually to annually. As discussed in the preamble to the final rule (56 FR 26527), the Agency also intended to allow a water system that maintains state specified water quality parameters in the distribution system for three consecutive years—three twelve-month monitoring periods—to reduce the frequency of water quality parameter monitoring from annually to triennially. Section 141.87 inadvertently omits this provision from the final rule.

This notice amends the final rule to correct this error.

Section 141.87(e)(4) of the final rule requires all public water systems that fail to operate in accordance with state specified water quality parameters during reduced monitoring to resume monitoring at the number and frequency applicable to water systems immediately after the state establishes water quality parameter values. Section 141.87(e)(4) mistakenly cross references § 141.87(c) rather than § 141.87(d) (which relates to water quality parameter monitoring after the parameters are specified by the state). This notice corrects that error.

Section 141.88(c) of the final rule requires all public water systems that install source water treatment to collect lead and copper source water samples at each entry point to the distribution system during each of two consecutive six-month monitoring periods after treatment is installed. Section 141.88(c) mistakenly refers to § 141.83(a)(2) as containing the requirement to install source water treatment; the correct reference should have been to § 141.83(a)(3). This notice corrects this error.

Section 141.88(e)(2) of the final rule allows surface water systems that meet the maximum permissible lead and copper source water levels set by the state for three consecutive years to reduce the monitoring frequency from annually to once every nine-year compliance cycle. The parenthetical statement at the end of § 141.88(e)(2) mistakenly refers to § 141.23 as containing the definition of "nine-year compliance cycle"; the correct reference should be § 141.2. This notice corrects this error.

Section 141.89 of the final rule contains a table of analytic methods accompanied by several footnotes. The Agency intended that the analytic methods included in the table be used by water systems and states to analyze lead, copper and water quality parameter samples. This notice revises footnotes 5, 6, and 7 to insure they correspond to the most recently updated edition of EPA's "Methods for the Determination of Metals in Environmental Samples" (EPA/600/4–91/010). The updated edition of this document does not alter the substance of any of the analytic methods included in § 141.89. The revised document simply provides laboratory analysts with additional background information on EPA methods for analyzing lead an copper. This document is currently the only source of these methods.

In addition to amending the footnotes to the table in § 141.89, EPA is correcting a typographical error that appears in the table for EPA method 365.2. The table currently states that method 365.2 is colorimetric, ascorbic acid, two reagent. The table should state that method 365.2 in colorimetric, ascorbic acid, single reagent. This notice corrects this error.

EPA has estimated a practical quantitation limit (PQL) for copper of 0.050 mg/L and a method detection limit (MDL) for copper of 0.001 mg/L (0.020 mg/L may be used as the MDL when atomic absorption direct aspiration is used). See 56 FR 26510–12. Section 141.89(e) allows public water systems to report the results of copper samples with concentrations measured between the PQL and the MDL as either the actual level or one-half the copper PQL. However, this provision mistakenly identifies one-half the copper PQL as 0.015 mg/L rather than 0.025 mg/L (The copper PQL is 0.050 mg/L). This notice corrects that error.

Section 141.90(c) of the final rule requires all public water systems to report the completion of a series of milestones to insure that the corrosion control treatment requirements are completed in accordance with the schedules in the final regulation. The Agency intended to have all water systems that wish to demonstrate to the state that optimal corrosion control treatment has been installed to report the information in § 141.81(b)(2) or (3) to the state. Section 141.90(c)(1) mistakenly cross references § 141.82(b)(2) or (3) rather than § 141.81(b)(2) or (3). This notice corrects that error.

Section 141.90(e)(2)(ii) of the final rule requires each public water system subject to the lead service line replacement requirements to demonstrate annually that it has replaced at least 7 percent of its lead service lines, or has collected lead service line samples indicating that the lead lines not replaced contribute less than 0.015 mg/L to tap water lead levels. Section 141.90(e)(2)(ii) mistakenly cross references § 141.84(b) rather than § 141.84(c). This notice corrects that error.

Corrections to NPDWRs for Inorganic Chemicals Published on January 30, 1991 (56 FR 3526)

The United States Environmental Protection Agency (EPA) promulgated maximum contaminant level goals (MCLGs) and national primary drinking water regulations (NPDWR) for 26 synthetic organic chemicals (SOCs) and seven inorganic chemicals (IOCs) (56 FR 3526) on January 30, 1991 ("phase II rule"). All sections of the phase II rule (56 FR 3596) will become effective on July 30, 1992. Section 142.62 of the phase II rule contains requirements for granting variances and exemptions from maximum contaminant levels (MCL) for organic and inorganic chemicals, but does not contain provisions for granting exemptions from the lead and copper rule.

EPA promulgated MCLGs and NPDWRs for lead and copper (56 FR 26460) on June 7, 1991 ("lead and copper rule"). Section 142.62 of the final lead and copper rule (56 FR 26563) amended requirements for granting variances and exemptions from MCLs for organic and inorganic chemicals and established procedures for granting exemptions from the treatment technique requirements for lead and copper. Specifically, §§ 142.62 (f), (g) and (h)(7) of the lead and copper rule contain provisions for granting exemptions from the corrosion control treatment, source water treatment, and lead service line replacement requirements in the lead and copper rule. These provisions became effective on July 7, 1991.

The requirements in § 142.62 of the "Phase II" rule become effective after the requirements in § 142.62 of the lead and copper rules, and the Phase II provisions will therefore supersede the latter requirements on July 30, 1992. However, because the final Phase II rule was published before the lead and copper rule, it does not include the language which the Agency included in § 142.62 (f), (g) and (h)(7) of the lead and copper rule related to exemptions for lead and copper. EPA wishes to retain that language after the Phase II rule becomes effective, to ensure that exemptions from the corrosion control treatment, source water treatment, and lead service line replacement requirements in the lead and copper rule are available. To avoid the inadvertent result of having those provisions deleted from the CFR, EPA is today correcting § 142.62 (f), (g) and (h)(7) in the Phase II rule to include the language related to granting exemptions from the treatment technique requirements in the lead and copper rule.

List of Subjects in 40 CFR Parts 141 and 142

Administrative practice and procedure, Chemicals, Intergovernmental relations, Reporting and recordkeeping requirements and water supply.

Dated: June 16, 1992.

Alan Fox,

Acting Assistant Administrator for Water.

The following corrections are made to 40 CFR, subpart I, §§ 141.80 to 141.90:

1. The authority citation continues to read as follows:

Authority: 42 U.S.C. 300f, 300g–1, 300g–2, 300g–3, 300g–4, 300g–5, 300g–6, 300j–4, and 300j–9.

§ 141.80 [Corrected]

2. Section 141.80(a)(2) is revised to read as follows:

§ 141.80 General requirements.

(a) * * *

(2) The requirements set forth in §§ 141.86 to 141.91 shall take effect on July 7, 1991. The requirements set forth in §§ 141.80 to 141.85 shall take effect on December 7, 1992.

* * * * *

§ 141.84 [Corrected]

3. Section 141.84(g) is revised to read as follows:

§ 141.84 Lead service line replacement requirements.

* * * * *

(g) Any system may cease replacing lead service lines whenever first draw samples collected pursuant to § 141.86(b)(2) meet the lead action level during each of two consecutive monitoring periods and the system submits the results to the State. If first draw tap samples collected in any such system thereafter exceeds the lead action level, the system shall recommence replacing lead service lines pursuant to paragraph (b) of this section.

* * * * *

§ 141.85 [Corrected]

4. In § 141.85(a)(1), the fifth sentence is revised to read as follows:

§ 141.85 Public education and supplemental monitoring requirements.

* * * * *

(a) * * *

(1) * * * We are also required to replace each lead service line that we control if the line contributes lead concentrations of more than 15 ppb after we have completed the comprehensive treatment program. * * *

* * * * *

5. Section 141.85(a)(4)(iv)(B) is revised to read as follows:

§ 141.85 Public education and supplemental monitoring requirements.

* * * * *

(a) * * *

(4) * * *

(iv) * * *

(B) [insert the name of city or county department that issues building permits] at [insert phone number] can provide you with information about building permit records that should contain the names of plumbing contractors that plumbed your home; and

* * * * *

§ 141.86 [Corrected]

6. Section 141.86(a)(9) is revised to read as follows:

§ 141.86 Monitoring requirements for lead and copper in tap water.

(a) * * *

(9) Any water system whose distribution system contains lead service lines shall draw 50 percent of the samples it collects during each monitoring period from sites that contain lead pipes, or copper pipes with lead solder, and 50 percent of the samples from sites served by a lead service line. A water system that cannot identify a sufficient number of sampling sites served by a lead service line shall demonstrate in a letter submitted to the State under § 141.90(a)(4) why the system was unable to locate a sufficient number of such sites. Such a water system shall collect first draw samples from all of the sites identified as being served by such lines.

7. Section 141.86(b)(2) is amended by adding a sentence, "If the sample is not acidified immediately after collection, then the sample must stand in the original container for at least 28 hours after acidification," immediately before the last sentence of the paragraph.

8. In the table in § 141.86(d)(1), the last "system size" entry, which reads, "3,300", is revised to read, "≤3,300".

9. Section 141.86(d)(1)(ii)(B) and (4)(v) are revised to read as follows:

§ 141.86 Monitoring requirements for lead and copper in tap water.

* * * * *

(d) * * *

(1) * * *

(ii) * * *

(B) The system meets the lead and copper action levels during two consecutive six-month monitoring periods, in which case the system may reduce monitoring in accordance with paragraph (d)(4) of this section.

* * * * *

(4) * * *

(v) A small- or medium-size water system subject to reduced monitoring that exceeds the lead or copper action level shall resume sampling in accordance with paragraph (d)(3) of this section and collect the number of samples specified for standard monitoring under paragraph (d) of this section. Such system shall also conduct water quality parameter monitoring in accordance with § 141.87 (b), (c) or (d) (as appropriate) during the monitoring period in which it exceeded the action level. Any water system subject to the reduced monitoring frequency that fails to operate within the range of values for the water quality parameters specified by the State under § 141.82(f) shall resume tap water sampling in accordance with paragraph (d)(3) of this section and collect the number of samples specified for standard monitoring under paragraph (c) of this section.

§ 141.87 [Corrected]

10. In § 141.87, a second sentence is added to paragraph (e)(2) to read as follows:

§ 141.87 Monitoring requirements for water quality parameters.

* * * * *

(e) * * *

(2) * * * Any water system that maintains the range of values for the water quality parameters reflecting optimal corrosion control treatment specified by the State under § 141.82(f) during three consecutive years of annual monitoring under this paragraph may reduce the frequency with which it collects the number of tap samples for applicable water quality parameters specified in paragraph (e)(1) from annually to every three years.

* * * * *

11. Section 141.87(e)(4) is revised to read as follows:

§ 141.87 Monitoring requirements for water quality parameters.

* * * * *

(e) * * *

(4) Any water system subject to the reduced monitoring frequency that fails to operate within the range of values for the water quality parameters specified by the State in § 141.82(f) shall resume tap water sampling in accordance with the number and frequency requirements in paragraph (d) of this section.

§ 141.88 [Corrected]

12. Section 141.88(c) is revised to read as follows:

§ 141.88 Monitoring requirements for lead and copper in source water.

* * * * *

(c) *Monitoring frequency after installation of source water treatment.* Any system which installs source water treatment pursuant to § 141.83(a)(3) shall collect an additional source water sample from each entry point to the distribution system during two consecutive six-month monitoring periods by the deadline specified in § 141.83(a)(4).

13. In § 141.88(e)(2), the parenthetical statement in the last line is revised to read as follows:

§ 141.88 Monitoring requirements for lead and copper in source water.

* * * * *

(e) * * *

(2) * * * (as that term is defined in § 141.2).

§ 141.89 [Corrected]

14. In the table in § 141.89(a), the "Methodology" entry for EPA method 365.2, which states, "Colorimetric, ascorbic acid, two reagent," is revised to read "Colorimetric, ascorbic acid, single reagent."

15. In § 141.89(a), footnotes 5, 6, and 7 are revised to read as follows:

* * * * *

[5] "Determination of Metals and Trace Elements in Water and Wastes by Inductively Coupled Plasma—Atomic Emission Spectrometry," Revision 3.3, April 1991, "Methods for the Determination of Metals in Environmental Samples." Office of Research and Development, Washington, DC 20460. EPA/600/4–91/010, June 1991.

[6] "Determination of Trace Elements in Waters and Wastes by Inductively Coupled Plasma—Mass Spectrometry," Revision 4.4, April 1991, "Methods for the Determination of Metals in Environmental Samples." Office of Research and Development, Washington, DC, 20460. EPA/600/4–91/010, June 1991.

[7] "Determination of Trace Elements by Stabilized Temperature Graphite Furnace Atomic Absorption Spectrometry," Revision 1.2, April 1991, "Methods for the Determination of Metals in Environmental Samples," Office of Research and Development, Washington, DC 20460. EPA/600/4–91/010, June 1991.

16. Section 141.89(a)(4) is revised to read as follows:

§ 141.89 Analytic methods.

(a) * * *

(4) All copper levels measured between the PQL and the MDL must be either reported as measured or they can be reported as one-half the PQL (0.025 mg/L). All levels below the copper MDL must be reported as zero.

§ 141.90 [Corrected]

17. Section 141.90 (c)(1) and (e)(2)(ii) are revised to read as follows:

§ 141.90 Reporting requirements.

* * * * *

(c) * * *

(1) For systems demonstrating that they have already optimized corrosion control, information required in § 141.81(b) (2) or (3).

* * * * *

(e) * * *

(2) * * *

(ii) Conducted sampling which demonstrates that the lead concentration in all service line samples from an individual line(s), taken pursuant to § 141.86(b)(3), is less than or equal to 0.015 mg/L. In such cases, the total number of lines replaced and/or which meet the criteria in § 141.84(c) shall equal at least 7 percent of the initial number of lead lines identified under paragraph (a) of this section (or the percentage specified by the State under § 141.84(f)).

40 CFR § 142.62, which becomes effective on July 30, 1992, is amended as follows:

PART 142—[AMENDED]

1. The authority citation for Part 142 continues to read as follows:

Authority: 42 U.S.C. 300f, 300g–1, 300g–2, 300g–3, 300g–4, 300g–5, 300g–6, 300j–4, 300j–9.

§ 142.62 [Corrected]

2. Section 142.62(f), introductory text of (g), and (h)(7) are revised to read as follows:

§ 142.62 Variances and exemptions from the maximum contaminant levels for inorganic and organic contaminants and the treatment technique for lead and copper.

* * * * *

(f) The State may require a public water system to use bottled water, point-of-use devices, point-of-entry devices or other means as a condition of granting a variance or an exemption from the requirements of § 141.61 (a) and (c) and § 141.62, to avoid an unreasonable risk to health. The State may require a public water system to use bottled water and point-of-use devices or other means, but not point-of-entry devices, as a condition of granting an exemption from corrosion control treatment requirements for lead and copper in §§ 141.81 and 141.82 to avoid an unreasonable risk to health. The State may require a public water system to use point-of-entry devices as a condition of granting an exemption from the source water treatment and lead service line replacement requirements for lead and copper under §§ 141.83 and 141.84 to avoid an unreasonable risk to health.

(g) Public water systems that use bottled water as a condition for receiving a variance or an exemption from the requirements of § 141.61(a) and (c) and § 141.62, or an exemption from the requirements of §§ 141.81–141.84 must meet the requirements specified in either paragraph (g)(1) or (g)(2) and paragraph (g)(3) of this section:

* * * * *

(h) * * *

(7) In requiring the use of a point-of-entry device as a condition for granting an exemption from the treatment technique requirements for lead and copper under § 141.83 or § 141.84, the State must be assured that use of the device will not cause increased corrosion of lead and copper bearing materials located between the device and the tap that could increase contaminant levels at the tap.

[FR Doc. 92–15206 Filed 8–26–92; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 60

RIN 0905–AD05

Health Education Assistance Loan Program

AGENCY: Public Health Service, HHS.

ACTION: Final regulations.

SUMMARY: This final regulation amends the existing regulations governing the Health Education Assistance Loan (HEAL) program to conform those regulations with amendments made to sections 727–739A of the Public Health Service Act (the Act) by the Health Professions Reauthorization Act of 1988. This rule also revises the regulations: To conform with the amendments made to the Act by the Compact of Free Association Act of 1985; to amend regulatory sections that contain information collection requirements with current Office of Management and Budget control numbers; and to make other changes which are technical or clarifying in nature. This amendments bring the existing regulations up to date with current department policy and statutory amendments made to sections 727–739A of the Act.

EFFECTIVE DATE: These regulations are effective June 29, 1992.

FOR FURTHER INFORMATION CONTACT: Mr. Stuart Weiss, Chief, Health Education Assistance Loan Branch, Division of Student Assistance, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Room 8–29, 5600 Fishers Lane, Rockville, Maryland 20857, telephone number: 301–443–1540.

SUPPLEMENTARY INFORMATION: The Health Education Assistance Loan (HEAL) program is governed by sections 727–739A (42 U.S.C. 294–294/–1) of the Public Health Service (PHS) Act (the

Act). Sections 727–739A of the Act authorize the Secretary to provide a Federal program of insurance for loans made to students in schools of allopathic medicine, osteopathic medicine, dentistry, veterinary medicine, optometry, podiatric medicine, public health, pharmacy, and chiropractic, and graduate students in health administration, clinical psychology and allied health. The loans are made by eligible lenders such as banks, credit unions, savings and loan associations, pension funds, HEAL schools, State agencies or instrumentalities, and insurance companies. Regulations governing the HEAL program are codified at 42 CFR part 60.

The Health Professions Reauthorization Act of 1988, title VI of Public Law 100–607, enacted November 4, 1988, made amendments to sections 727–739A of the PHS Act. This final rule incorporates into the existing regulations changes which are technical and ministerial in nature, to conform the regulations to the amendments made by Public Law 100–607.

Public Law 100–607 provides an amendment that requires that HEAL holders must comply with any provisions in the regulations required of HEAL lenders, including but not limited to provisions regarding applications, contracts, and due diligence. The Department is therefore adding throughout the HEAL regulations, where appropriate, the words "or holder" or "or holders" to comply with this overall requirement.

Further amendments are being made at the end of appropriate section texts to cite current Office of Management and Budget (OMB) control numbers in those sections that contain information collection requirements. A list of current OMB control numbers is provided in the discussion of the Paperwork Reduction Act section addressed later in this preamble.

Other amendments are discussed below according to the section numbers and titles of the regulations.

Subpart A—General Program Description

Section 60.1 "What is the HEAL Program?"

The Department is revising the first sentence of paragraph (a) of this section to change the word "osteopathy" to "osteopathic medicine" and the word "podiatry" to "podiatric medicine", in accordance with Public Law 100–607.

Subpart B—The Borrower

Section 60.5 "Who is an eligible student borrower?"

The Department is revising paragraph (a) of this section to reflect the revised definition of "State" (as defined in § 60.50(a)), in accordance with Public Law 99–239, the Compact of Free Association Act of 1985.

Section 60.8 "What are the borrower's major rights and responsibilities?"

The Secretary is adding a new paragraph (a)(12) to this section of the regulations to incorporate the change that allows any borrower who received a HEAL loan with a fixed interest rate exceeding 12 percent per year to enter into an agreement with the lender which made this loan for the reissuance or refinancing of the loan at the interest rate in effect for HEAL loans on the date the borrower submits an application for reissuance or refinancing.

Subpart C—The Loan

Section 60.10 "How much can be borrowed?"

The Department is revising paragraphs (a)(1) and (b)(2) of this section to change in both places the word "osteopathy" to "osteopathic medicine" and the word "podiatry" to "podiatric medicine", in accordance with Public Law 100–607.

Section 60.13 "Interest."

Paragraph (b) is revised to reflect the statutory change for compounding interest. Prior to November 4, 1988, the lenders were required to compound unpaid accrued interest semiannually. The statutory change allows, rather than requires, the compounding of interest on a semiannual basis.

Subpart D—The Lender

The heading of subpart D is revised to include the words "and Holder".

Section 60.30 "Which organizations are eligible to apply to be HEAL lenders?"

The section heading is revised to include eligible holders as well as eligible lenders. In accordance with sections 732(d) and 737(2) of the Act, as amended by Public Law 100–607, the Secretary is including an additional type of organization as an "eligible lender", and is revising paragraph (c) of this section to include the types of organizations eligible to be holders. Paragraph (d) has been added to clarify that all holders of HEAL loans are subject to regulations applicable to lenders including, but not limited to, those provisions regarding applications, contracts, and due diligence.

Section 60.31 "The application to be a HEAL lender."

The section heading and paragraphs (a) and (b)(1) are revised to include eligible holders as well as eligible lenders. The Secretary is revising paragraph (c) of this section to state that the applicant must develop written procedures for making, servicing, and collecting HEAL loans.

Section 60.32 "The HEAL lender or holder insurance contract."

The Department is revising paragraph (c)(3), in accordance with the statute, to provide that, in making comprehensive insurance contracts, the Secretary shall give priority to eligible lenders that agree to: (1) Make HEAL loans to students at an interest rate below the prevailing rate during the period involved; or (2) to make HEAL loans to students under more favorable terms than those generally being offered by eligible lenders for HEAL loans during the period involved.

Section 60.35 "HEAL loan collection."

Paragraph (c)(3) of this section has been revised to state that prior to the payment of a default insurance claim by the Secretary, the lender or holder must commence and prosecute a legal action for such default except under circumstances specified by law.

Section 60.38 "Assignment of a HEAL loan."

The introductory text to this section has been revised to reflect the statutory change which adds "or a public entity in the business of purchasing student loans" to the definition of eligible holder.

Section 60.40 "Procedures for filing claims."

The Department is revising paragraph (c)(1)(i) of this section to state that if a lender determines that it is not appropriate to commence and prosecute an action against a defaulted borrower, it must file a default claim with the Secretary within 30 days after it has been determined to be in default.

Section 60.41 "Determination of amount of loss on claims."

Paragraph (a) has been revised to clarify that the term "amount of loss" means, with respect to a HEAL loan, the unpaid balance of principal and interest, "less the amount of any judgment collected pursuant to default

proceedings commenced by the eligible lender or holder involved."

Subpart E—The School

Section 60.50 "Which schools are eligible to be HEAL schools?"

The Department also is amending the concluding text of paragraph (a) that defines "State", by inserting after "Trust Territory of the Pacific Islands" "(the Republic of Palau), the Republic of the Marshall Islands, and the Federated States of Micronesia", in accordance with Public Law 99–239, the Compact of Free Association Act of 1985. This change is being made to update, for purposes of this loan program, those entities that are viewed as a State.

Section 60.51 "The student loan application."

The Department is deleting the citation in paragraph (f)(1) of this section "and published under 34 CFR 674.13", since it is no longer used by the Department of Education. The need analysis methodologies are now authorized under part F of title IV of the Higher Education Act of 1965, as amended.

Justification for Omitting Notice of Proposed Rulemaking

Since these amendments are of a technical and ministerial nature, the Secretary has determined pursuant to 5 U.S.C. 553 and departmental policy that it is unnecessary and impractical to follow proposed rulemaking procedures or delay the effective date of these regulations.

Regulatory Flexibility Act and Executive Order 12291

The Department believes that the resources required to implement the new requirements in these regulations are minimal in comparison to the overall resources of the lenders and the schools. Therefore, in accordance with the requirements of the Regulatory Flexibility Act of 1980, the Secretary certifies that these regulations will not have a significant economic impact on a substantial number of small entities.

The Department also has determined that this rule is not a major rule under Executive Order 12291; therefore, a regulatory impact analysis is not required. The rule will not exceed the threshold level of $100 million established in section (b) of Executive Order 12291.

Paperwork Reduction Act of 1980

The Health Education Assistance Loan regulations contain information collections which have been approved by the Office of Management and Budget under the Paperwork Reduction Act of 1980 and assigned control numbers 0915–0034, 0915–0036, 0915–0038, 0915–0043, 0915–0100, and 0915–0108. The title, description, and respondent description of the information collections are shown below with an estimate of the annual reporting, notification and recordkeeping burdens. Included in the estimate is the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Title: Health Education Assistance Loan (HEAL) Program

Description: Authority for the Secretary to provide a Federal program of insurance for loans made to health professions students. The loans are made by eligible lenders such as banks, credit unions, savings and loan associations, pension funds, insurance companies, HEAL schools, and State agencies or instrumentalities of a State.

Description of Respondents: Nonprofit institutions, and businesses or other for profit institutions.

ESTIMATED ANNUAL REPORTING, NOTIFICATION AND RECORDKEEPING BURDEN:

Section No.	Annual No. of respondents	Frequency* of response	Total annual responses	Average burden per response	Annual burden hours	OMB No. (0915–)
60.7(a)(1) (ii): (Reporting)	29,442	3	87,000	31 min	45,434 hrs	0038
60.7(a)(2): (Notification)	Burden included in 60.7(a)(1)(ii)					0108
60.7(a)(2): (Recordkeeping)	Burden included in 60.34(b)(2) and in 60.61(a) (1) and (2).					0108
60.7(a)(3): (Reporting)	Burden included in 60.7(a)(1)(ii)					0108
60.7(c)(2): (Notification)	Burden included in 60.34(b)(1)					0108
(Recordkeeping)	0	0	0	0	0	0108
60.7(c)(3): (Reporting)	Burden included in 60.12(b)					0108
60.8(a)(5): (Notification)	Burden included in 60.38(a)					0108
60.8(b)(3): (Notificaton)	37,200		37,200	10 min	6,200 hrs	0108
60.11(e): (Notification)	Burden included in 60.34(b)(i)					0108
60.11(f)(5): (Notification)						0043
60.12(b): (Notification)	32,810	5	52,500	7.5 min	6,563 hrs	0034
60.12(c): (Notification)	Burden included in 60.12(b)					0108
60.18: (Notification)	72		3,000	40 min	2,000 hrs	0108

ESTIMATED ANNUAL REPORTING, NOTIFICATION AND RECORDKEEPING BURDEN:—Continued

Section No.	Annual No. of respondents	Frequency[4] of response	Total annual responses	Average burden per response	Annual burden hours	OMB No. (0915-)
60.21(b)(2): (Notification)	72		3,000	23 min	1,125 hrs	0108
60.31(a): (Reporting)	70	1	70	15 min	18 hrs	0034 0108
60.31(c): (Recordkeeping)	72		72	4 hrs	288 hrs	0108
60.32(b): (Reporting)	72		275	15 min	69 hrs	0108
60.33(c): (Notification)	72		500	20 min	167 hrs	0108
60.33(e): (Reporting)	72	444	32,000	30 min	16,000 hrs	0043 0108
60.33(g): (Notification)	72		400	14 min	93 hrs	0108
60.34(b)(1): (Notification)	72	139	10,000	30 min	5,000 hrs	0043 0108
60.34(b)(2): (Recordkeeping)	72		31,071	5 min	2,589 hrs	0108
60.34(c): (Notification)	72		250,000	10 min	41,667 hrs	0108
60.35(a)(1): (Notification)	72		10,000	30 min	5,000 hrs	0108
(Recordkeeping)	72		10,000	5 min	833 hrs	0108
60.35(a)(2): (Reporting) D72	72	139	10,000	15 min	2,500 hrs	0100 0108
(Reporting)	Burden included in 60.40(a)					0108
(Recordkeeping)	72		2,500	10 min	417 hrs	0108
60.35(c)(2): (Notification)	72		1,800	15 min	450 hrs	0108
60.35(e): (Notification)	72		1,800	10 min	300 hrs	0108
60.37(a): (Notification)	72		2,400	5 min	200 hrs	0108
60.37(a)(1): (Recordkeeping)	72		2,500	15 min	625 hrs	0108
60.37(c): (Recordkeeping)	72		1,200	10 min	200 hrs	0108
60.37(c)(1): (Recordkeeping)	72		300	10 min	50 hrs	0108
60.37(c)(3): (Notification)	72		1,200	10min	200 hrs	0108
60.38(a): (Notification)	72		500	5 min	42 hrs	0108
(Reporting)	70	58	4,060	10 min	677 hrs	0034 0108
60.39(b)(2): (Reporting)	72		100	2 hrs	200 hrs	0108
60.40(a): (Reporting)	70	15.7	1,100	1 hr	1,100 hrs	0036 0108
(Recordkeeping)	72		500	70 min	583 hrs	0108
60.40(c)(1)(i): (Reporting)	Burden included in 60.40(a)					0108
60.40(c)(1)(ii): (Reporting)	Burden included in 60.40(a)					0108
60.40(c)(1)(iii): (Reporting)	72		100	12 min	20 hrs	0108
(Notification)	72		250	20 min	83 hrs	0108
60.40(c)(2): (Reporting)	Burden included in 60.40(a)					0108
60.40(c)(3): (Reporting)	Burden included in 60.40(a)					0108
60.40(c)(4): (Reporting)	Burden included in 60.40(a)					0108
(Notification)	72		100	30 min	50 hrs	0108
60.42(a)(1): (Recordkeeing)	Burden included in 60.42(a)(2)					0108
60.42(a)(2): (Recordkeeping)	72		124,000	15 min	31,000 hrs	0108
60.42(b): (Reporting)	72	4	288	1.5 hrs	432 hrs	0043
60.42(d): (Reporting)	72		72	4 hrs	288 hrs	0108

ESTIMATED ANNUAL REPORTING, NOTIFICATION AND RECORDKEEPING BURDEN:—Continued

Section No.	Annual No. of respondents	Frequency* of response	Total annual responses	Average burden per response	Annual burden hours	OMB No. (0915-)
60.42(e):						
(Reporting)	5		5	2 hrs	10 hrs	0108
60.51(a):						
(Reporting)	400	72.5	29,000	32 min	15,467 hrs	0038
60.51(f)(1):						0108
(Recordkeeping)	Burden included in 60.61(a)(5)					
60.51(f)(2):						0108
(Recordkeeping)	Burden included in 60.61(a)(5)					
60.53:						0108
(Notification)	Burden included in 60.61(a)(7)					
60.54:						0108
(Notification)	411		311	25 min	130 hrs	0108
60.56(a):						
(Recordkeeping)	Burden included in 60.61(a)(5)					0108
60.56(b):						
(Recordkeeping)	Burden included in 60.61(a)(5)					0108
60.56(c):						
(Reporting)	411		411	4 hrs	1,644 hrs	0108
60.57:						
(Notification)	411		1,240	8 min	165 hrs	0108
(Recordkeeping)	411		411	45 min	308 hrs	0108
60.61(a)(1):						
(Notification)	411		31,071	35 min	18,125 hrs	0108
(Recordkeeping)	411		31,071	5 min	2,589 hrs	0108
60.61(a)(2):						
(Notification)	311		311	35 min	181 hrs	0108
(Notification)	411		31,071	55 min	28,482 hrs	0108
(Recordkeeping)	411		31,070	5 min	2,589 hrs	0108
60.61(a)(3):						
(Notification)	411		621	12 min	124 hrs	0108
60.61(a)(4):						
(Recordkeeping)	411		411	5 hrs	2,055 hrs	0108
60.61(a)(5):						
(Recordkeeping)	411		90,000	15 min	22,500 hrs	0108
60.61(a)(6):						
(Recordkeeping)	411		31,071	2 min	1,036 hrs	0108
60.61(a)(7):						
(Notification)	411		37,200	10 min	6,200 hrs	0108
60.61(b):						
(Reporting)	411		0	0	0	0108

* Not available for regulatons with burden cleared under 0915-0108.

List of Subjects in 42 CFR Part 60

Educational study programs, Health professions, Loan programs—education, Loan programs—health, Medical and dental schools, Reporting and recordkeeping requirements, Student aid.

(*Catalog of Federal Domestic Assistance*, No. 13.108, Health Education Assistance Loan Program)

Dated: November 7, 1991.

James O. Mason,

Assistant Secretary for Health.

Approved: January 3, 1992.

Louis W. Sullivan,

Secretary.

Accordingly, 42 CFR part 60 is amended as follows:

PART 60—HEALTH EDUCATION ASSISTANCE LOAN PROGRAM

1. The authority citation for 42 CFR part 60 is revised to read as follows:

Authority: Section 215 of the Public Health Service Act, 58 Stat. 690, as amended, 63 Stat. 35 (42 U.S.C. 216); secs. 727–739A of the Public Health Service Act, 90 Stat. 2243, as amended, 93 Stat. 582, 99 Stat. 529–532, 102 Stat. 3122–3125 (42 U.S.C. 294–294*l*–1).

Subpart A—General Program Description

§ 60.1 [Amended]

2. Section 60.1, in subpart A, is amended in the first sentence of paragraph (a) by removing the word "osteopathy" and adding in its place the words "osteopathic medicine", and removing the word "podiatry" and adding in its place the words "podiatric medicine". Further, § 60.1 is amended in the last sentence of paragraph (a) by adding the words "or holder" after the word "lender".

Subpart B—The Borrower

3. Section 60.5, in subpart B, is amended by revising paragraph (a) to read as follows:

§ 60.5 Who is an eligible student borrower?

* * * * *

(a) He or she must be a citizen, national, or lawful permanent resident of the United States, permanent resident of the Trust Territory of the Pacific Islands (the Republic of Palau), the Republic of the Marshall Islands, the Federated States of Micronesia, the Commonwealth of the Northern Mariana Islands, or American Samoa, or lawful permanent resident of the Commonwealth of Puerto Rico, the Virgin Islands or Guam;

* * * * *

4. Section 60.7 is amended by revising paragraphs (a)(2), (c)(2), and the parenthetical phrase at the end of the section to read as follows:

§ 60.7 The loan application process.

(a) * * *

(2) The student applicant must be informed of the Federal debt collection policies and procedures in accordance with the Department's Claims Collection Regulation (45 CFR part 30) prior to the student receiving the loan. The applicant must sign a certification statement attesting that the applicant has been notified of the actions the Federal Government can take in the event that the applicant fails to meet the scheduled payments. This signed statement must be maintained by the school and the lender or holder as part of the borrower's official record.

* * * * *

(c) * * *

(2) The nonstudent applicant must be informed of the Federal debt collection policies and procedures in accordance with the Department's Claims Collection Regulation (45 CFR part 30) prior to the nonstudent receiving the loan. The applicant must sign a certification statement attesting that the applicant has been notified of the actions the Federal Government can take in the event that the applicant fails to meet the scheduled payments. This signed statement will be maintained by the lender or holder as part of the borrower's official record.

* * * * *

(Approved by the Office of Management and Budget under control numbers 0915–0038 and 0915–0108)

5. Section 60.8 is amended by revising paragraphs (a)(1), (a)(2), (a)(4), (a)(5), (a)(9), (a)(11), (b)(2) and (b)(3); by adding a new paragraph (a)(12); and by adding a parenthetical phrase at the end of the section to read as follows:

§ 60.8 What are the borrower's major rights and responsibilities?

(a) *The borrower's rights.* (1) Once the terms of the HEAL loan have been established, the lender or holder may not change them without the borrower's consent.

(2) The lender must provide the borrower with a copy of the completed promissory note when the loan is made. The lender or holder must return the original note to the borrower when the loan is paid in full.

* * * * *

(4) The lender or holder must provide the borrower with a copy of the repayment schedule before repayment begins.

(5) If the loan is sold from one lender or holder to another lender or holder, or if the loan is serviced by a party other than the lender or holder, the buyer must notify the borrower within 30 days of the transaction.

* * * * *

(9) The lender or holder must allow the borrower to repay a HEAL loan according to a graduated repayment schedule.

* * * * *

(11) To assist the borrower in avoiding default, the lender or holder may grant the borrower forbearance. Forbearance, including circumstances in which the lender or holder must grant forbearance, is more fully described in § 60.37.

(12) Any borrower who received a fixed interest rate HEAL loan in excess of 12 percent per year may enter into an agreement with the lender which made this loan for the reissuance of the loan in accordance with section 739A of the Public Health Service Act.

(b) * * *

(2) The borrower must pay all interest charges on the loan as required by the lender or holder.

(3) The borrower must immediately notify the lender or holder in writing in the event of:

* * * * *

(Approved by the Office of Management and Budget under control number 0915–0108)

Subpart C—The Loan

§ 60.10 [Amended]

6. Section 60.10, in subpart C, is amended in paragraphs (a)(1) and (b)(2) by removing the word "osteopathy" and adding in its place the words "osteopathic medicine" and removing the word "podiatry" and adding in its place the words "podiatric medicine".

7. Section 60.11 is amended in the first sentence of paragraph (a)(1)(ii) by removing the phrase "first day of the 10th months" and adding in its place the phrase "first day of the 10th month"; by removing the phrase "33 years limitations" in paragraph (b)(1) to read "33 year limitations"; by revising the introductory text of paragraph (b), and paragraphs (b)(2), (e), (f)(1), (f)(2), (f)(4), and (f)(5); and by adding a parenthetical phrase at the end of the section to read as follows:

§ 60.11 Terms of repayment.

* * * * *

(b) *Length of repayment period.* In general, a lender or holder must allow a borrower at least 10 years, but not more than 25 years, to repay a loan calculated from the beginning of the repayment period. A borrower must fully repay a loan within 33 years from the date that the loan is made.

* * * * *

(2) For a borrower who receives his or her first HEAL loan on or after October 22, 1985, periods of deferment (as described in § 60.12) are included when calculating the 33 year limitation, but are not included when calculating the 10 to 25 year limitation.

* * * * *

(e) *Repayment schedule agreement.* At least 30 and not more than 60 days before the commencement of the repayment period, a borrower must contact the holder of the loan to establish the precise terms of repayment. The borrower may select a monthly repayment schedule with substantially equal installment payments or a monthly repayment schedule with graduated installment payments that increase in amount over the repayment period. If the borrower does not contact the lender or holder and does not respond to contacts from the lender or holder, the lender or holder may establish a monthly repayment schedule with substantially equal installment payments, subject to the terms of the borrower's HEAL note.

(f) *Supplemental repayment agreement.* (1) A lender or holder and a borrower may enter into an agreement supplementing the regular repayment schedule agreement. Under a supplemental repayment agreement, the lender or holder agrees to consider that the borrower has met the terms of the regular repayment schedule as long as the borrower makes payments in accordance with the supplemental schedule.

(2) The purpose of a supplemental repayment agreement is to permit a lender or holder, at its option, to offer a borrower a repayment schedule based on other than equal or graduated payments. (For example, a supplemental repayment agreement may base the amount of the borrower's payments on his or her income.)

* * * * *

(4) The lender or holder may establish a supplemental repayment agreement over the borrower's objection only if the borrower's written consent to enter into a supplemental agreement was obtained by the lender at the time the loan was made.

(5) A lender or holder may assign a loan subject to a supplemental repayment agreement only if it specifically notifies the buyer of the terms of the supplemental agreement. In such cases, the loan and the supplemental agreement must be assigned together.

(Approved by the Office of Management and Budget under control numbers 0915–0043 and 0915–0108)

8. Section 60.12 is amended by revising paragraph (c); and by revising the parenthetical phrase at the end of the section to read as follows:

§ 60.12 Deferment.

* * * * *

(c) (1) To receive a deferment, including a deferral of the onset of the repayment period (see § 60.11(a)), a borrower must at least 30 days prior to, but not more than 60 days prior to, the onset of the activity and annually thereafter, submit to the lender or holder evidence of his or her status in the deferment activity and evidence that verifies deferment eligibility of the activity (with the full expectation that the borrower will begin the activity). It is the responsibility of the borrower to provide the lender or holder with all required information or other information regarding the requested deferment. If written evidence that verifies eligibility of the activity and the borrower for the deferment, including a certification from an authorized official (e.g., the director of the fellowship activity, the dean of the school, etc.), is received by the lender or holder within the required time limit, the lender or holder must approve the deferment. The lender or holder may rely in good faith upon statements of the borrower and the authorized official, except where those statements or other information conflict with information available to the lender or holder. When those verification statements or other information conflict with information available to the lender or holder, to indicate that the applicant fails to meet the requirements for deferment, the lender or holder may not approve the deferment until those conflicts are resolved.

(2) For those activities described in paragraphs (b)(1) or (b)(2) of this section, the borrower may request that the Secretary review a decision by the lender or holder denying the deferment by sending to the Secretary copies of the application for deferment and the lender's or holder's denial of the request. However, if information submitted to the lender or holder conflicts with other information available to the lender or holder, to indicate that the borrower fails to meet the requirements for deferment, the borrower may not request a review until such conflicts have been resolved. During the review process, the lender or holder must comply with any requests for information made by the Secretary. If the Secretary determines that the fellowship or educational activity is eligible for deferment and so notifies the lender or holder, the lender or holder must approve the deferment.

(Approved by the Office of Management and Budget under control numbers 0915–0034 and 0915–0108)

9. Section 60.13 is amended by revising paragraphs (b) and (c) to read as follows:

§ 60.13 Interest.

* * * * *

(b) *Compounding of interest.* Interest accrues from the date the loan is disbursed until the loan is paid in full. Unpaid accrued interest shall be compounded not more frequently than semiannually and added to principal. However, a lender or holder may postpone the compounding of interest before the beginning of the repayment period or during periods of deferment or forbearance and add interest to principal at the time repayment of principal begins or resumes.

(c) *Payment.* Repayment of principal and interest is due when the repayment period begins. A lender or holder must permit a borrower to postpone paying interest before the beginning of the repayment period or during a period of deferment or forbearance. In these cases, payment of interest begins or resumes on the date repayment of principal begins or resumes.

* * * * *

§ 60.14 [Amended]

10. Section 60.14 is amended by removing the parenthetical phrase at the end of the section.

11. Section 60.15 is amended by revising the first sentence in both paragraphs (a) and (b) to read as follows:

§ 60.15 Other charges to the borrower.

(a) *Late charges.* If the borrower fails to pay all of a required installment payment or fails to provide written evidence that verifies eligibility for the deferment of the payment within 30 days after the payment's due date, the lender or holder will require that the borrower pay a late charge. * * *

(b) *Collection charges.* The lender or holder may also require that the borrower pay the holder of the note for reasonable costs incurred by the holder or its agent in collecting any installment not paid when due. * * *

* * * * *

12. Section 60.18 is amended by revising the introductory text and paragraph (a); and by adding a parenthetical phrase at the end of the section to read as follows:

§ 60.18 Consolidation of HEAL loans.

HEAL loans may be consolidated as follows provided that the lender or holder must first inform the borrower of the effect of the consolidation on the interest rate and explain to the borrower that he or she is not required to agree to the consolidation:

(a) If a lender or holder holds two or more HEAL loans made to the same borrower, the lender or holder and the borrower may agree to consolidate the loans into a single HEAL loan obligation evidenced by one promissory note.

* * * * *

(Approved by the Office of Management and Budget under control number 0915–0108)

§ 60.19 [Amended]

13. Section 60.19 is amended in the second sentence by adding the words "or holder" after the words "a lender".

§ 60.20 [Amended]

14. Section 60.20 is amended in paragraph (a) by capitalizing the word "secretary" the first time it is used; and by amending the heading in paragraph (c) by adding the words "or holder" after the word "lender".

§ 60.21 [Amended]

15. Section 60.21 is amended by adding the words "or holders" after the word "lender" in the heading of paragraph (b); and by revising the OMB control number "0915–0038" in the parenthetical phrase at the end of the section to read "0915–0108".

Subpart D—[Amended]

16. The heading for subpart D is amended by adding the words "and Holder" at the end of the heading.

17. Section 60.30, in subpart D, is amended by revising the section heading; by revising paragraphs (a), (b)(3), (b)(4), and (c); and by adding new paragraphs (b)(5) and (d) to read as follows:

§ 60.30 Which organizations are eligible to apply to be HEAL lenders and holders?

(a) A HEAL lender may make and hold loans under the HEAL program.

(b) * * *

(3) An agency or instrumentality of a State;

(4) A HEAL school; and

(5) A private nonprofit entity, designated by the State, regulated by the State, and approved by the Secretary.

(c) The following types of organizations are eligible to apply to the Secretary to be HEAL holders:

(1) Public entities in the business of purchasing student loans;

(2) The Student Loan Marketing Association (popularly known as "Sallie Mae"); and

(3) Other eligible lenders.

(d) HEAL holders must comply with any provisions in the regulations required of HEAL lenders including, but not limited to, provisions regarding applications, contracts, and due diligence.

18. Section 60.31 is amended by revising the heading of the section; and by revising paragraphs (a), (b)(1), the first sentence of paragraph (c), and the parenthetical phrase at the end of the section to read as follows:

§ 60.31 The application to be a HEAL lender or holder.

(a) In order to be a HEAL lender or holder, an eligible organization must submit an application to the Secretary annually.

(b) * * *

(1) Whether the applicant is capable of complying with the requirements in the HEAL regulations applicable to lenders and holders;

* * * * *

(c) The applicant must develop and follow written procedures for making, servicing and collecting HEAL loans.

* * *

* * * * *

(Approved by the Office of Management and Budget under control numbers 0915–0034 and 0915–0108)

19. Section 60.32 is amended by revising paragraphs (a)(2) and (c)(3) and the parenthetical phrase at the end of the section to read as follows:

§ 60.32 The HEAL lender or holder insurance contract.

(a) * * *

(2) HEAL insurance, however, is not unconditional. The Secretary issues HEAL insurance on the implied representations of the lender that all the requirements for the initial insurability of the loan have been met. HEAL insurance is further conditioned upon compliance by the holder of the loan with the HEAL statute and regulations, the lender's or holder's insurance contract, and its own loan management procedures set forth in writing pursuant to § 60.31(c). The contract may contain a limit on the duration of the contract and the number or amount of HEAL loans a lender may make or hold. Each HEAL lender has either a standard insurance contract or a comprehensive insurance contract with the Secretary, as described below.

* * * * *

(c) * * *

(3) In providing comprehensive contracts, the Secretary shall give priority to eligible lenders that:

(i) Make loans to students at interest rates below the rates prevailing during the period involved; or

(ii) Make loans under terms that are otherwise favorable to the student relative to the terms under which eligible lenders are generally making loans during the period involved.

(Approved by the Office of Management and Budget under control number 0915–0108)

§ 60.33 [Amended]

20. Section 60.33 is amended by revising the OMB control numbers "0915–0034, 0915–0038 and 0915–0043" in the parenthetical phrase at the end of the section to read "0915–0043 and 0915–0108".

21. Section 60.34 is amended by revising paragraphs (a), (b)(1), (b)(3), (c), and (d), and the parenthetical phrase at the end of the section to read as follows:

§ 60.34 HEAL loan account servicing.

* * * * *

(a) *Borrower inquiries.* A lender or holder must respond on a timely basis to written inquiries and other communications from a borrower and any endorser of a HEAL loan.

(b) *Conversion of loan to repayment status.* (1) At least 30 and not more than 60 days before the commencement of the repayment period, the lender or holder must contact the borrower in writing to establish the terms of repayment. Lenders or holders may not charge borrowers for the additional interest or other charges, penalties, or fees that accrue when a lender or holder does not contact the borrower within this time period and a late conversion results.

* * * * *

(3) The lender or holder may not surrender the original promissory note to the borrower until the loan is paid in full. At that time, the lender or holder must give the borrower the original promissory note.

(c) *Borrower contacts.* The lender or holder must notify each borrower by a written contact, which has an address correction request on the envelope, of the balance owed for principal, interest, insurance premiums, and any other charges or fees owed to the lender, at least every 6 months from the time the loan is disbursed. The lender or holder must use this notice to remind the borrower of the option, without penalty, to pay all or part of the principal and accrued interest at any time.

(d) *Skip-tracing.* If, at any time, the lender or holder is unable to locate a borrower, the lender or holder must initiate skip-tracing procedures as described in § 60.35(a)(2).

(Approved by the Office of Management and Budget under control numbers 0915–0043 and 0915–0108)

22. Section 60.35 is amended by revising the introductory text; by revising paragraphs (a)(1), the first sentence in paragraph (a)(2), paragraphs (b), (c) introductory text, (c)(3), (d), (e), and (f); and by revising the parenthetical phrase at the end of the section to read as follows:

§ 60.35 HEAL loan collection.

A lender or holder must exercise due diligence in the collection of a HEAL loan with respect to both a borrower and any endorser. In order to exercise due diligence, a lender or holder must implement the following procedures when a borrower fails to honor his or her payment obligations:

(a) (1) When a borrower is delinquent in making a payment, the lender or holder must remind the borrower within 15 days of the date the payment was due by means of a written contact. If payments do not resume, the lender or holder must contact both the borrower and any endorser at least 3 more times at regular intervals during the 120-day delinquent period following the first missed payment of that 120-day period. The second demand notice for a delinquent account must inform the borrower that the continued delinquent status of the account will be reported to consumer credit reporting agencies if payment is not made. Each of the required four contacts must consist of at least a written contact which has an address correction request on the envelope. The last contact must consist of a telephone contact, in addition to the required letter, unless the borrower cannot be contacted by telephone. The lender or holder may choose to substitute a personal contact for a telephone contact. A record must be made of each attempt to contact and each actual contact, and that record must be placed in the borrower's file. Each contact must become progressively firmer in tone. If the lender or holder is unable to locate the borrower and any endorser at any time during the period when the borrower is delinquent, the lender or holder must initiate the skip-tracing procedures described in paragraph (a)(2) of this section.

(2) If the lender or holder is unable to locate either the borrower or the endorser at any time, the lender or holder must initiate and use skip-tracing activities which are at least as extensive and effective as those it uses to locate borrowers delinquent in the repayment of its other loans of comparable dollar value. * * *

(b) When a borrower is 90 days delinquent in making a payment, the lender or holder must immediately

request preclaim assistance from the Public Health Service. The Secretary does not pay a default claim if the lender or holder fails to request preclaim assistance.

(c) Prior to the filing of a default claim, a lender or holder must use, at a minimum, collection practices that are at least as extensive and effective as those used by the lender or holder in the collection of its other loans. These practices must include, but need not be limited to:

* * * * *

(3) Commencing and prosecuting an action for default unless:

(i) In the determination of the Secretary that:

(A) The lender or holder has made reasonable efforts to serve process on the borrower involved and has been unsuccessful in these efforts; or

(B) Prosecution of such an action would be fruitless because of the financial or other circumstances of the borrower;

(ii) For loans made before November 4, 1988, the loan involved was made in an amount of less than $5,000; or

(iii) For loans made on or after November 4, 1988, the loan involved was made in an amount of less than $2,500.

(d) If the Secretary's preclaim assistance locates the borrower, the lender or holder must implement the loan collection procedures described in this section. When the Secretary's preclaim assistance is unable to locate the borrower, a default claim may be filed by the lender as described in § 60.40. The Secretary does not pay a default claim if the lender or holder has not complied with the HEAL statute and regulations or the lender's or holder's insurance contract.

(e) If a lender or holder does not sue the borrower, it must send a final demand letter to the borrower and any endorser at least 30 days before a default claim is filed.

(f) If a lender or holder sues a defaulted borrower or endorser, it may first apply the proceeds of any judgment against its reasonable attorney's fees and court costs, whether or not the judgment provides for these fees and costs.

* * * * *

(Approved by the Office of Management and Budget under control numbers 0915–0100 and 0915–0108)

23. Section 60.36 is revised to read as follows:

§ 60.36 Consequence of using an agent.

The delegation of functions to a servicing agency or other party does not relieve a lender or holder of its responsibilities under the HEAL program.

24. Section 60.37 is revised to read as follows:

§ 60.37 Forbearance.

(a) *Forbearance* means an extension of time for making loan payments or the acceptance of smaller payments than were previously scheduled to prevent a borrower from defaulting on his or her payment obligations. A lender or holder must notify each borrower of the right to request forbearance.

(1) Except as provided in paragraph (a)(2) of this section, a lender or holder must grant forbearance whenever the borrower is temporarily unable to make scheduled payments on a HEAL loan and the borrower continues to repay the loan in an amount commensurate with his or her ability to repay the loan. Any circumstance which affects the borrower's ability to repay the loan must be fully documented.

(2) If the lender or holder determines that the default of the borrower is inevitable and that forbearance will be ineffective in preventing default, the lender or holder may submit a claim to the Secretary rather than grant forbearance. If the Secretary is not in agreement with the determination of the lender or holder, the claim will be returned to the lender or holder as disapproved and forbearance must be granted.

(b) A lender or holder must exercise forbearance in accordance with terms that are consistent with the 25- and 33-year limitations on the length of repayment (described in § 60.11) if the lender or holder and borrower agree in writing to the new terms. Each forbearance period may not exceed 6 months.

(c) A lender or holder may also exercise forbearance for periods of up to 6 months in accordance with terms that are inconsistent with the minimum annual payment requirement if the lender or holder complies with the requirements listed in paragraphs (c) (1) through (4) of this section. Subsequent renewals of the forbearance must also be documented in accordance with the following requirements:

(1) The lender or holder must reasonably believe that the borrower intends to repay the loan but is currently unable to make payments in accordance with the terms of the loan note. The lender or holder must state the basis for its belief in writing and maintain that statement in its loan file on that borrower.

(2) Both the borrower and an authorized official of the lender or holder must sign a written agreement of forbearance.

(3) If the agreement between the borrower and lender or holder provides for deferment of all payments, the lender or holder must contact the borrower at least every 3 months during the period of forbearance in order to remind the borrower of the outstanding obligation to repay.

(4) The total period of forbearance (with or without interruption) granted by the lender or holder to any borrower must not exceed 2 years. However, when the borrower and the lender or holder believe that there are bona fide reasons why this period should be extended, the lender or holder may request a reasonable extension beyond the 2-year period from the Secretary. This request must document the reasons why the extension should be granted. The lender or holder may grant the extension for the approved time period if the Secretary approves the extension request.

(Approved by the Office of Management and Budget under control number 915–0108)

25. Section 60.38 is amended by revising the introductory text; by revising the first sentence in paragraph (a); and by revising the parenthetical phrase at the end of the section to read as follows:

§ 60.38 Assignment of a HEAL loan.

A HEAL note may not be assigned except to another HEAL lender, the Student Loan Marketing Association (popularly known as "Sallie Mae"), or a public entity in the business of purchasing student loans, and except as provided in § 60.40. In this section "seller" means any kind of assignor and "buyer" means any kind of assignee.

(a) *Procedure.* A HEAL note assigned from one lender or holder to another must be subject to a blanket endorsement together with other HEAL notes being assigned or must individually bear effective words of assignment. * * *

* * * * *

(Approved by the Office of Management and Budget under control numbers 0915–0034 and 0915–0108)

26. Section 60.39 is amended by revising paragraph (b)(3) and the parenthetical phrase at the end of the section to read as follows:

§ 60.39 Death and disability claims.

* * * * *

(b) * * *

(3) If the Secretary determines that the borrower is totally and permanently disabled, the lender or holder must

return to the borrower any payments, except for refunds under § 60.21, that it receives after being notified that the borrower claims to be totally and permanently disabled.

(Approved by the Office of Management and Budget under control number 0915–0108)

27. Section 60.40 is amended by revising the introductory text to paragraph (a), paragraphs (a)(2), (b), (c) introductory text, (c)(1)(i), (c)(1)(iii) introductory text, (c)(2), and (c)(3); by removing the first parenthetical at the end of the section; and by revising the second parenthetical phrase at the end of the section to read as follows:

§ 60.40 Procedures for filing claims.

(a) A lender or holder must file an insurance claim on a form approved by the Secretary. The lender or holder must attach to the claim all documentation necessary to litigate a default, including any documents required to be submitted by the Federal Claims Collection Standards, and which the Secretary may require. Failure to submit the required documentation and to comply with the HEAL statute and regulations or the lender's or holder's insurance contract will result in a claim not being honored. The Secretary may deny a claim that is not filed within the period specified in this section. The Secretary requires for all claims at least the following documentation:

* * * * *

(2) An assignment to the United States of America of all right, title, and interest of the lender or holder in the note;

* * * * *

(b) The Secretary's payment of a claim is contingent upon receipt of all required documentation and an assignment to the United States of America of all right, title, and interest of the lender or holder in the note underlying the claim. The lender or holder must warrant that the loan is eligible for HEAL insurance.

(c) In addition, the lender or holder must comply with the following requirements for the filing of default, death, disability, and bankruptcy claims:

(1) * * *

(i) If a lender or holder determines that it is not appropriate to commence and prosecute an action against a default borrower pursuant to § 60.35(c)(3), it must file a default claim with the Secretary within 30 days after a loan has been determined to be in default.

* * * * *

(iii) In addition to the documentation required for all claims, the lender or holder must submit with its default claim at least the following:

* * * * *

(2) *Death claims.* A lender or holder must file a death claim with the Secretary within 30 days after the lender or holder obtains documentation that a borrower is dead. In addition to the documentation required for all claims, the lender or holder must submit with its death claim those documents which verify the death, including an official copy of the Death Certificate.

(3) *Disability claims.* A lender or holder must file a disability claim with the Secretary within 30 days after it has been notified that the Secretary has determined a borrower to be totally and permanently disabled. In addition to the documentation required for all claims, the lender or holder must submit with its claim evidence of the Secretary's determination that the borrower is totally and permanently disabled.

* * * * *

(Approved by the Office of Management and Budget under control numbers 0915–0036 and 0915–0108)

28. Section 60.41 is amended by revising the first sentence in both paragraphs (a) and (b); and by revising paragraphs (c)(2), (d), and (e) (2) to read as follows:

§ 60.41 Determination of amount of loss on claims.

(a) *General rule.* HEAL insurance covers the unpaid balance of principal and interest on an eligible HEAL loan, less the amount of any judgment collected pursuant to default proceedings commenced by the eligible lender or holder involved. * * *

(b) *Special rules for loans acquired by assignment.* If a claim is filed by a lender or holder that obtained a loan by assignment, that lender or holder is not entitled to any payment under this section greater than that to which a previous holder would have been entitled. * * *

(c) * * *

(2) If the loan for which a claim is filed was originally made by a school but the claim is filed by another lender of holder that obtained the note by assignment, the Secretary deducts from the claim an amount equal to any unpaid refund that the school owed the borrower prior to the assignment.

(d) *Circumstances under which defects in claims may be cured or excused.* The Secretary may permit a lender or holder to cure certain defects in a specified manner as a condition for payment of a default claim. The Secretary may excuse certain defects if the holder submitting the default claim satisfies the Secretary that the defect did not contribute to the default or prejudice the Secretary's attempt to collect the loan from the borrower. The Secretary may also excuse certain defects if the defect arose while the loan was held by another lender or holder and the holder submitting the default claim satisfies the Secretary that the assignment of the loan was an arm's length transaction, that the present holder did not know of the defect at the time of the sale and that the present holder could not have become aware of the defect through an examination of the loan documents.

(e) * * *

(2) If the Secretary returned the claim to the lender or holder for additional documentation necessary for the approval of the claim, the Secretary pays interest only for the first 30 days following the return of the claim to the lender or holder.

29. Section 60.42 is amended by revising the section heading and paragraph (a)(1) introductory text, paragraphs (a) (2) through (4), (b), (c), (d), and (e); and by revising the parenthetical phrase at the end of the section to read as follows:

§ 60.42 Records, reports, inspection, and audit requirements for HEAL lenders and holders.

(a) *Records.* (1) A lender or holder must keep complete and accurate records of each HEAL loan which it holds. The records must be organized in a way that permits them to be easily retrievable and allows the ready identification of the current status of each loan. The required records include:

* * * * *

(2) The lender or holder must maintain for each borrower a payment history showing the date and amount of each payment received on the borrower's behalf, and the amounts of each payment attributable to principal and interest. A lender or holder must also maintain for each loan a collection history showing the date and subject of each communication with a borrower or endorser for collection of a delinquent loan. Furthermore, a lender or holder must keep any additional records which are necessary to make any reports required by the Secretary.

(3) A lender or holder must retain the records required for each loan for not less than 5 years following the date the loan is repaid in full by the borrower. However, in particular cases the Secretary may require the retention of records beyond this minimum period. A lender or holder must keep the original copy of an unpaid promissory note, but

may store all other records in microform or computer format.

(4) The lender or holder must maintain accurate and complete records on each HEAL borrower and related school activities required by the HEAL program. All HEAL records shall be maintained under security and protected from fire, flood, water leakage, other environmental threats, electronic data system failures or power fluctuations, unauthorized intrusion for use, and theft.

(b) *Reports.* A lender or holder must submit reports to the Secretary at the time and in the manner required by the Secretary.

(c) *Inspections.* Upon request, a lender or holder must afford the Secretary, the Comptroller General of the United States, and any of their authorized representatives access to its records in order to assure the correctness of its reports.

(d) The lender or holder must comply with the Department's biennial audit requirements of section 705 of the Act.

(e) Any lender or holder who has information which indicates potential or actual commission of fraud or other offenses against the United States, involving these loan funds, must promptly provide this information to the appropriate Regional Office of Inspector General for Investigations.

(Approved by the Office of Management and Budget under control numbers 0915–0043 and 0915–0108)

30. Section 60.43 is amended by revising the section heading and paragraphs (a) and (c) to read as follows:

§ 60.43 Limitation, suspension, or termination of the eligibility of a HEAL lender or holder.

(a) The Secretary may limit, suspend, or terminate the eligibility under the HEAL program of an otherwise eligible lender or holder that violates any provision of title VII, part C, subpart I of the Act, as amended (42 U.S.C. 294–294/-1), the regulations in this part, or agreements with the Secretary concerning the HEAL program. The Secretary will take this action in accordance with procedures for the limitation, suspension, or termination of the eligibility of lenders or holders under the Federal Insured Student Loan Program which are set forth in 34 CFR part 682.

* * * * *

(c) This section also does not apply to administrative action by the Department of Health and Human Services based on any alleged violation of:

(1) Title VI of the Civil Rights Act of 1964, which is governed by 45 CFR part 80;

(2) Title IX of the Education Amendments of 1972, which is governed by 45 CFR part 86;

(3) The Family Educational Rights and Privacy Act of 1974 (section 438 of the General Education Provisions Act, as amended), which is governed by 34 CFR part 99; or

(4) Title XI of the Right to Financial Privacy Act of 1978, Pub. L. 95–630 (12 U.S.C. 3401–3422).

Subpart E—The School

31. Section 60.50, in subpart E, is amended by revising the concluding text of paragraph (a)(1) to read as follows:

§ 60.50 Which schools are eligible to be HEAL schools?

(a) * * *

(1) * * *

For the purposes of this section, the term "State" includes, in addition to the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands (the Republic of Palau), the Republic of the Marshall Islands, and the Federated States of Micronesia.

* * * * *

§ 60.51 [Amended]

32. Section 60.51 is amended by removing the phrase "and published under 34 CFR 674.13" from paragraph (f)(1); and by adding a parenthetical phrase at the end of the section to read "(Approved by the Office of Management and Budget under control numbers 0915–0038 and 0915–0108)".

33. Section 60.53 is amended by revising the section heading and by adding a parenthetical phrase at the end of the section to read as follows:

§ 60.53 Notification to lender or holder of change in enrollment status.

* * * * *

(Approved by the Office of Management and Budget under control number 0915–0108)

§ 60.54 [Amended]

34. Section 60.54 is amended by adding a parenthetical phrase at the end of the section to read:

"(Approved by the Office of Management and Budget under control number 0915–0108)".

§ 60.56 [Amended]

35. Section 60.56 is amended by revising the OMB control number "0915–0054" in the parenthetical phrase at the end of the section to read "0915–0108".

36. Section 60.57 is revised to read as follows:

§ 60.57 Reports.

A school must submit reports to the Secretary at the times and in the manner the Secretary may reasonably prescribe. The school must retain a copy of each report for not less than 5 years following the report's completion, unless otherwise directed by the Secretary. A school must also make available to a HEAL lender or holder, upon the lender's or holder's request, the name, address, postgraduate destination and other reasonable identifying information for each of the school's students who has a HEAL loan.

(Approved by the Office of Management and Budget under control number 0915–0108)

37. Section 60.60 is amended by revising paragraph (a) to read as follows:

§ 60.60 Limitation, suspension, or termination of the eligibility of a HEAL school.

(a) The Secretary may limit, suspend, or terminate the eligibility under the HEAL program of an otherwise eligible school that violates any provision of title VI, part C, subpart I of the Act, as amended (42 U.S.C. 294–294/–1), the regulations in this part or agreements with the Secretary concerning the HEAL program. The Secretary will take this action in accordance with procedures for the limitation, suspension, or termination of the eligibility of schools under the Student Assistant General Provisions of the Department of Education, which are set forth in 34 CFR part 668.

* * * * *

38. Section 60.61 is amended by revising paragraph (a)(2); and by adding a parenthetical phrase at the end of the section to read as follows:

§ 60.61 Responsibilities of a HEAL school.

(a) * * *

(2) Conduct and document an exit interview with each HEAL loan recipient (individually or in groups) within the final academic term of the loan recipient's enrollment prior to his or her anticipated graduation date or other departure date from the school. The school must inform the loan recipient in the exit interview of his or her rights and responsibilities under each HEAL loan, including the consequences for noncompliance with those responsibilities. The school must also collect personal information from the loan recipient which would assist

the school or the lender or holder in skiptracing activities and to direct the loan recipient to contact the lender or holder concerning specific repayment terms and options. A copy of the documentation of the exit interview, including the personal information collected for skiptracing activities, and any other information required by the Secretary regarding the exit interview must be sent to the lender or holder of each HEAL loan within 30 days of the exit interview. If the loan recipient departs from the school prior to the anticipated date or does not receive an exit interview, the exit interview information must be mailed to the loan recipient by the school within 30 days of the school's knowledge of the departure or the anticipated departure date, whichever is earlier. The school must request that the loan recipient forward any required information (e.g., skiptracing information, request for deferment, etc.) to the lender or holder. The school must notify the lender or holder of the loan recipient's departure at the same time it mails the exit interview material to the loan recipient.

* * * * *

(Approved by the Office of Management and Budget under control number 0915-0108)

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Proposed Rules

Federal Register
Vol. 57, No. 125
Monday, June 29, 1992

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

7 CFR Part 723

Commodity Credit Corporation

7 CFR Part 1464

Tobacco

AGENCY: Agricultural Stabilization and Conservation Service, and Commodity Credit Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend regulations at 7 CFR parts 723 and 7 CFR part 1464 concerning the operation and administration of the federal support program for tobacco.

1. Part 723

With respect to part 723 the proposed rule would, among other amendments, amend § 723.104 by changing the definitions of "damaged tobacco" and "nonauction sale" for clarity and to enhance program operation. Also, §§ 723.403, 723.404, and 723.406 would be amended regarding "damaged tobacco" to provide that warehouse operators and dealers will not be allowed carryover or purchase credit for that tobacco. In addition, for more effective program enforcement regarding dealer operations, the proposed rule would: (1) Revise § 723.311 to allow for holding persons affiliated with dealers who owe penalties or persons who allow such indebted dealers to use their dealer identification cards, responsible for the indebtedness; (2) revise § 723.311 to provide that penalty liens will be effective as of the date of the assessment of the penalty and to add a new provision regarding the return of dealer identification cards; (3) amend § 723.401 to require that burley and flue-cured tobacco dealers must file an annual letter of credit or bond beginning with the 1992 marketing year for burley tobacco and the 1993 marketing year for flue-cured tobacco to secure payment of potential penalties; (4) amend § 723.401 to explicitly allow for suspension of a dealer identification card in any case of material program violations; (5) amend §§ 723.409 and 723.410 to provide explicitly for penalties for warehouse operators, dealers and producers where a producer marketing card is used to market tobacco or place tobacco for a price support loan after the tobacco has been sold or is considered sold through the payment of an "advance" or through other pre-auction arrangements.

2. Part 1464

With respect to part 1464, the proposed rule would amend §§ 1464.7 and 1464.8 to specify explicitly the circumstances in which tobacco would be considered sold by the producer prior to a producer auction by means of an advance or other pre-auction arrangement. Under the proposed rule, tobacco that is considered sold by the producer would be ineligible for marketing thereafter by use of the producer marketing card and would be ineligible thereafter for a price support loan. Remedies are also provided for noncompliance. This change is intended to avoid use of advances as a mechanism for marketing excess producer tobacco or to provide price support to warehouse operators and dealers rather than producers.

DATES: Comments must be received on or before July 14, 1992 in order to be assured of consideration.

ADDRESSES: Interested persons are invited to submit written comments to: Director, Tobacco and Peanuts Division, Agricultural Stabilization and Conservation Service, United States Department of Agriculture, P.O. Box 2415, Washington, DC 20013, telephone 202–720–7413.

FOR FURTHER INFORMATION CONTACT: (1) With respect to part 723: Mike Thompson, Agriculture Program Specialist; and (2) With respect to part 1464: Gary W. Wheeler, Tobacco Marketing Specialist. Their address is: Tobacco and Peanuts Division, Agricultural Stabilization and Conservation Service, United States Department of Agriculture, P.O. Box 2415, Washington, DC 20013, telephone: (Wheeler) 202–720–7562; (Thompson) 202–720–4281.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Department Regulation No. 1512–1 and has been classified as "not major."

It has been determined that this rule will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local governments, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

It has been determined that the Regulatory Flexibility Act is not applicable to this proposed rule since the Agricultural Stabilization and Conservation Service (ASCS) and Commodity Credit Corporation (CCC) are not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

The title and number of the Federal Assistance Program to which this rule applies, as found in the catalog of Federal Domestic Assistance, are Commodity Loans and Purchases—10.051.

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is needed.

This program/activity is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

This proposed rule has been reviewed in accordance with Executive Order 12778. The provisions of this proposed rule are not retroactive and preempts State laws to the extent that such laws are inconsistent with the provisions of this proposed rule. Before any legal action is brought regarding determinations made under the provisions of 7 CFR parts 723 and 1464,

the administrative appeal provisions set forth at 7 CFR part 780 must be exhausted.

This proposed rule imposes a new information collection requirement in § 723.401, effective beginning with the 1993 marketing year. The contents of and justification for this reporting requirement will be submitted to the Office of Management and Budget for review and approval in accordance with the requirements of the Paperwork Reduction Act of 1980, as amended.

Discussion

The federal tobacco program is administered under the provisions of the Agricultural Adjustment Act of 1938 (1938 Act) and the Agricultural Act of 1949 (1949 Act) and under regulations at 7 CFR parts 723 (marketing quotas and penalties) and 1464 (price support eligibility). The tobacco program is administered through ASCS and CCC of the Department of Agriculture (USDA). The principal proposed revisions are set out below by part.

A. Changes to Part 723

1. Definitions (Section 723.104)

It is proposed that § 723.104 be amended by revising the definition of "damaged tobacco" so that the definition will no longer be restricted to nonauction tobacco. On some occasions, damaged tobacco may be discovered on inspection at auction warehouses or other storage locations and this change will aid in the revisions discussed below for denying dealers and warehouse operators carryover credit for damaged tobacco. It is also proposed that in this section the definition of "nonauction sale" be revised so as not to limit the definition, as it is now, to first marketings. The distinction between auction and nonauction sales can be significant for marketings other than first marketings.

2. Penalty Avoidance Through use of Another Dealer's Identification Card; Affiliated Dealers (Section 723.311)

Some individuals will seek to avoid payment of penalties by engaging in large profit making violations through the use of a corporate entity or other business entity. In addition, dealers that are faced with significant penalties, will engage, in some cases, in various payment avoidance schemes. One scheme involves using another dealer's identification card to market tobacco or marketing tobacco through an affiliated entity or individual. In order to address such avoidance, it is proposed that § 723.311 be amended to provide that when a penalty is incurred under this part by an entity in excess of $10,000, all persons who have a substantial ownership interest in the entity shall be jointly and severally liable with the entity for the payment of such penalty, unless it is demonstrated to the satisfaction of the Deputy Administrator that the violation was inadvertent. Substantial ownership would be deemed to be an ownership interest greater than 10 percent. It is also proposed that § 723.311 be amended to provide that any persons or person, who as a warehouse operator or dealer, becomes affiliated with any person who at the time of affiliation is indebted under this part to the United States, shall be liable for the amount of the debt owned to the United States by the person with whom such person becomes affiliated up to the amount of the value of any tobacco which is marketed by such affiliated warehouse operator or dealer during the time of the affiliation with the indebted person. Indicia of affiliation would include joint ownership of a common enterprise, a business relationship conducted on a casual and undocumented basis, lax financial arrangements between the parties, and any other relevant facts which indicate that the relationship between the parties may be other than at arm's length. Lax financial arrangements would include instances in which a large quantity of tobacco has supposedly changed hands without movement of the tobacco or without documentation of a real exchange of money.

3. Attachment of Tobacco Marketing Quota (TMQ) Liens (Section 723.311)

TMQ liens attach to a dealer's tobacco for marketing quota penalties. Current regulations provide that the lien does not attach until the debt is placed on the debt register at the county or State ASCA office. And, current regulations, allow the dealer 15 days to return the dealer identification card. These delays have been used by some to avoid the penalties. It is proposed that § 723.311 be revised to provide that the lien would attach immediately on the assessment of the penalty and that the card be returned immediately. This would permit more rapid notice to the industry of the existence of the lien and help avoid illegal use of the dealer identification card. Where such liens attach and there is a genuine dispute about the debt, such disputes would be resolved as expeditiously as possible.

4. Dealer Letters of Credit or Bond and Suspension of Dealer Identification Card (Section 723.401)

Dealers must be approved to handle tobacco. Additionally, regulations at 7 CFR part 1464 provide for: (1) Dealers and warehouse operators to collect and remit to CCC no-net-cost and tobacco marketing assessments on the first sale of producer tobacco, and (2) the assessing of marketing penalties on such dealers and warehouse operators for failure to collect or timely remit assessment collections. In some instances there is an avoidance of penalty collections or payment of assessments through business reorganizations or through lack of assets; in some cases these avoidances may be purposeful. It is proposed that § 723.401 be amended to require dealers in burley and flue-cured tobacco to post an acceptable letter of credit or bond beginning with the 1992 marketing year for burly tobacco and the 1992 marketing year for flue-cured tobacco. Burley and flue-cured dealers are the only dealers who are required to register annually for a dealer identification card (MQ–79–2) which is used by ASCS to track purchases and sales of burley and flue-cured tobacco between dealers and between dealers and other entities. These requirements are applicable to burley and flue-cured dealers due to the marketing quota (poundage) limitations of the burley and flue-cured marketing quota programs. As a condition of approval, the dealer must post an acceptable letter of credit or bond with the ASCS. The base amount would be the higher of: (a) $25,000 or (b) the sum of the amounts determined by multiplying the respective amount of burley and flue-cured tobacco purchased by the dealer in the previous year multiplied by 10 percent of the applicable penalty rate for the previous year, but not to exceed $100,000. The amount required for an individual dealer would be increased over the base amount if the dealer is indebted to ASCS for past tobacco penalties. Also, current regulations only provide for burley and flue-cured tobacco dealers' suspensions in cases where such dealers fail to timely permit the inspection and weighing of carryover tobacco. However, in the event of a failure to maintain records and file required reports, it may be clear that a dealer is failing to abide by the dealer's obligation although a penalty may not yet be due. Accordingly, it is proposed that § 723.401 be further amended so as to permit suspensions for a failure to file accurate reports or for other violations of the dealer's responsibilities under 7 CFR parts 723 and 1464.

5. Disallowance of Purchase Credit for Damaged tobacco (Sections 723.403, 723.404, and 723.406)

In some instances warehouse operators and dealers will purchase worthless damaged tobacco in order to obtain purchase credit pounds on their dealer's record book. They then, because of the difficulties of detection, use the credit pounds to market sound excess producer tobacco. With respect to burley or flue-cured tobacco, excess, tobacco is tobacco which exceeds 103 percent of a farm's effective tobacco marketing quota. To correct for this abuse, it is proposed that §§ 723.403, 723.404, and 723.406 be amended to disallow purchase credit pounds where upon inspection, burley or flue-cured tobacco is classified as " damaged tobacco".

6. Explicit Provisions for Marketing of Warehouse Operators and Dealers using a Producer Marketing Card (Sections 723.409 and 723.410)

In some instances warehouse operators and dealers will use a producer marketing card to market, as producer tobacco, tobacco which the warehouse operator or dealer has already purchased from a producer by using an advance or other pre-auction arrangement. It is proposed, as set out below, that part 1464 be amended to define where such arrangements and advances will be deemed a sale of tobacco by the producer so that the later use of the producer's marketing card to sell the tobacco at an auction or to place the tobacco for a price support loan will be a violation of the tobacco program. It is also proposed that a corresponding change be made in part 723 in §§ 723.409 and 723.410 to provide that where there is deemed to have been such a pre-auction sale, the use of the producer's card by the warehouse operator or dealer will be considered a false identification of the tobacco for which the warehouse operator or dealer and producer will be liable for a penalty at the applicable rate. Other remedies, such as a refund of any price support loan, may be required.

B. Changes to Part 1464

1. Requirements for Qualification as "Eligible Producer" for Marketing Tobacco in the Name of the Producer After an Advance or Other Pre-Auction Arrangement (Section 1464.7).

Warehouse operators and dealers in some instances provide advances to producers or make other pre-auction arrangements which amount to a purchase of tobacco from the producer. In such instances the warehouse operator or dealer will take the producer's marketing card, and use the card to market the tobacco to a third party by sale or to place the tobacco for a price support loan (thereby making the support loan a warehouse operator or dealer support loan instead of a producer loan in contravention of the intent of the 1949 Act). If several producers are involved (and several marketing cards), this practice may be a scheme to market excess tobacco through the indiscriminate use of several producer cards. To correct for these abuses, it is proposed that § 1464.7 (which defines for purposes of price support who is or is not an "eligible producer") and § 1464.8 (which defines which tobacco is considered for price support to be "eligible tobacco") be amended. The proposal would specify that any advance would be treated as a sale unless the parties executed a written memorandum which: (1) Sets out the pounds involved; (2) the amount of the advance; (3) states (accurately) that the producer is in full control of the disposition of the tobacco; (4) states (accurately) that the producer will receive all of the proceeds of the disposition of the tobacco minus the advance and minus any legitimate standard, published charges specified in a definite amount in the agreement, which charges must be applicable generally to tobacco and may be made payable for services which are actually rendered; and (5) contains other terms set out in the proposed rule. The rule proposes that where such an agreement is not made prior to, or at the time of the advance, or where the agreement is not completed in full accordance with the regulations by the time of the advance, the tobacco will be considered to have been sold, at the time of the advance, by the producer to the party making the advance. Likewise, the rule provides that the tobacco will be considered to have been sold at the time of the advance if the advance per pound that was made on such tobacco is equal to or greater than the net proceeds per pound which were obtained from the sale of all tobacco marketed from the farm for the marketing year at producer auctions, including any tobacco on which an advance is made, or the pledging of the tobacco for price support loans. If the tobacco is considered to be sold at the time of the advance, then any subsequent marketing using the producer's card would be considered as a false identification for which the producer and warehouse operator or dealer would be liable for penalties. The marketing of the tobacco may also be considered a marketing of excess tobacco to the extent provided for in the revisions to part 723. Also, any tobacco receiving a price support loan after the advance was made would be forfeited and the producer and the party making the advance would be jointly and severally liable for the return of the monies. The tobacco would be considered to have a loan value of zero and would be retained by CCC.

2. Qualification of Tobacco as "Eligible Tobacco" for Purposes of a Price Support Loan After an Advance or Other Pre-Auction Arrangement With the Producer (Section 1464.8)

This rule proposes a corresponding change to § 1464.8 to provide that tobacco considered sold (due to an advance or other pre-auction arrangement) before the auction at which price support is available will not be eligible for a price support loan. The producer and the dealer or other person who took possession of the tobacco from the producer will be responsible for a refund to CCC of the loan proceeds already paid and the tobacco will be considered to be forfeited.

C. Other Changes

Several other changes are proposed for clarifying purposes, including a provision to explicitly permit the ASCS Deputy Administrator, State and County Operations to delegate the authority to reduce marketing penalties in appropriate cases.

List of Subjects

7 CFR Part 723

Acreage allotments, Marketing quotas, Penalties, Reporting and record keeping requirements, Tobacco.

7 CFR Part 1464

Loan programs/agriculture, Price support programs, Tobacco, Warehouses.

Accordingly, it is proposed that 7 CFR parts 723 and 1464 be amended as follows:

PART 723—TOBACCO

1. The authority citation for part 723 is revised to read as follows:

Authority: 7 U.S.C. 1301, 1311–1314, 1314–1, 1314c, 1314d, 1314f, 1314h, 1315, 1316, 1363, 1372–75, 1377–79, 1421, 1445–1, and 1445–2.

2. Section 723.104(b) is amended by revising the terms "damaged tobacco" and "nonauction sale" to read as follows:

§ 723.104 Definitions.

* * * * *

(b) *Terms.* * * *

Damaged tobacco. Any tobacco that has suffered a loss of value due to deterioration resulting from a cause such as rot, separation of leaves from stems, fire, smoke, water, or other conditions that would cause such tobacco to be distinguishably different from that normally marketed in trade channels.

* * * * *

Nonauction sale. Any marketing of tobacco other than at an auction sale.

* * * * *

3. Section 723.311 is revised to read as follows:

§ 723.311 Lien for penalty; liability of persons who are affiliated with indebted person or who permit the indebted person to use their identification card.

(a) *Lien on tobacco.* Until the amount of any marketing quota penalty imposed under this part is paid, a lien shall exist in favor of the United States for the amount of the penalty on:

(1) The tobacco with respect to which such penalty is incurred; and

(2) Any other tobacco subject to marketing quotas which the person liable for payment of the penalty has an interest in and which is marketed in the same or a subsequent marketing year.

(b) *Lien precedence.* The lien, described in paragraph (a) of this section, attaches at the time that the penalty is assessed. As to third parties, in the event of a lack of actual notice of the lien, then notice shall be deemed to occur when:

(1) In the case of indebted producers, the debt is entered on the debt record maintained by the county ASCS office of the county in which the tobacco was grown:

(2) In the case of an indebted warehouse operator, the debt is entered on the debt record of the State ASCS office for the State in which the warehouse is located; and

(3) In the case of an indebted dealer, the debt is entered on the debt record of the State ASCS office for the State in which the dealer is required to file reports.

(c) *Availability of list of marketing quota penalty debts.* Each county and State ASCS office shall maintain a list of tobacco marketing penalty debts which have been entered on the debt record in their office. The list shall be available for examination upon request by an interested person.

(d) *Liability for penalty owed by another person.*

(1) When a penalty in excess of $10,000 is incurred under this part by an entity, all persons who have a substantial ownership interest in the entity shall be jointly and severally liable with the entity for the payment of such penalty, unless it is demonstrated to the satisfaction of the Deputy Administrator that the violation was inadvertent. Substantial ownership interest shall be deemed to be any ownership interest greater than ten percent.

(2) A dealer or warehouse operator who permits an indebted person to use such dealer's or warehouse operator's identification card to market tobacco shall be liable for the amounts due by the indebted person to the United States under this part up to the amount of the value of the tobacco so marketed. In addition, unless the Deputy Administrator determines otherwise, any persons or person, who as a warehouse operator or dealer becomes affiliated with any person who at the time of affiliation is indebted under this part to the United States, shall be liable for the amount of the debt owed to the United States by the person with whom such person or persons become affiliated up to the amount of the value of any tobacco which is marketed by such affiliated warehouse operator or dealer during the time of the affiliation with the indebted person. Affiliation may include any relationship in which the parties have a common interest in tobacco, or in an enterprise or entity involved in the marketing, processing, or handling of tobacco, or where the parties both hold a position of responsibility or ownership in such an enterprise or entity, or where there is common ownership of a business involved in the transactions between the persons or person who as a warehouse operator or dealer and the indebted person or entity with respect to which the question of affiliation is raised. A warehouse operator or dealer may also be considered to be affiliated with an indebted person when the warehouse operator or dealer is associated with a person who is both:

(i) As an employee or otherwise associate, authorized to buy and sell tobacco for such warehouse operator or dealer; and

(ii) Is an indebted person or at the time of the indebtedness was a substantial owner or officer of the indebted entity.

Affiliation may also be deemed to occur where the parties have traded in tobacco under circumstances which indicate that there may be a lack of arms length trading between the parties such as where the parties engage in casual or undocumented transactions in significant quantities of tobacco, or where the parties have traded in tobacco with each other without a movement of the tobacco, or where there is a trading in tobacco without documentation of a significant exchange of money. Where questions of affiliation arise, it shall be the burden on the parties involved to show that trading in such tobacco was conducted in accordance with normal trade practices and was not part of a scheme or device to avoid payments of sums due the United States or the CCC.

(e) *TMQ lien notation.* Upon notification that a TMQ lien has been established, the producer marketing card (MQ–76) or dealer identification card (MQ–79–2) shall be returned immediately to the issuing office for recording the TMQ lien. Failure to immediately return the applicable card will result in ASCS notifying all registered warehouse operators and dealers of the TMQ lien information and of their responsibilities for collecting the TMQ lien. The card shall be promptly returned to the producer or dealer after it is annotated with the TMQ lien.

4. Section 723.401 is amended by revising the section heading, revising paragraphs (b) and (c), and adding paragraphs (d) and (e) to read as follows:

§ 723.401 Registration of burley and flue-cured tobacco warehouse operators and dealers.

* * * * *

(b) *Dealer registration.* Eeach person who expects to deal in burley or flue-cured tobacco during a marketing year shall complete a Dealer Application and Agreement (MQ–79–2–A) annually, except dealers who are exempt from maintaining or filing records and reports as provided in § 723.405 of this part. The application must be filed after March 1 of the calendar year in which the marketing year begins, and shall be filed with the State ASCS office or, if designated by the State Executive Director, the county ASCS office for the county where the dealer resides or where the dealer's principal business is located. The applicant shall provide the names, and such other information as required by the Deputy Administrator, of all other persons who will be authorized to use the dealer identification card (MA–79–2). A dealer entity is limited to one dealer registration number. Persons affiliated with another dealer of the same household shall not be eligible for a dealer registration number unless the Deputy Administrator determines that the entities or individuals are separate and independent.

(c) *Approval of application and agreement.* The State Executive Director

of the State ASCS office shall, under the direction of the Deputy Administrator, be the approving official for the Dealer Application and Agreement. If the approving official has reason to doubt that the applicant is a bona fide dealer or intends to become a bona fide dealer, the application may be disapproved until such time as the applicant furnishes information satisfactory to the State ASC committee that the application is bona fide. An application shall also be disapproved for any person who has failed to file reports or permit inspections required in § 723.404(d)(9). A person whose application is disapproved shall be provided with the opportunity to appeal the disapproval and to furnish information to substantiate the application or to comply with other requirements in § 723.404 of this part.

(d) *Letter of credit or bond.* (1) *General requirements.* Effective with the beginning of the 1992 marketing year for burley tobacco and with the 1993 marketing year for flue-cured tobacco, in order to secure the payment of penalties as may be incurred by a dealer during the marketing year for which approval as a dealer is sought, each dealer, as a condition for final approval to handle tobacco must present a letter of credit or bond which is determined by the Deputy Administrator to be acceptable security and which meets the dollar requirements of this section. The letter of credit or bond shall be submitted to the State ASCS office where the dealer is registered. The letter of credit or bond must have been issued by a commercial bank insured by the Federal Deposit Insurance Corporation and must be in the form specified by the Deputy Administrator and have the content specified by the Deputy Administrator. A letter of credit or bond shall be furnished annually after initial approval of the dealer's application and notification of the amount required. The dealer identification card shall not be issued until it is determined that acceptable security has been presented.

(2) *Amount Required.* The base amount of the letter of credit or bond shall be the larger of:

(i) $25,000 or

(ii) The sum of the amounts determined by multiplying the respective pounds of burley and flue-cured tobacco purchased by the dealer during the preceding marketing year by 10 percent of the marketing year penalty rate for the respective kind of tobacco involved for the relevant year with the resulting amount not to exceed $100,000.

A dealer shall submit the letter of credit or bond for the base amount plus an amount equal to the amount of any unpaid tobacco marketing quota penalty owed by such dealer. The amount shall also be increased by $5,000 for each 10,000 pounds of tobacco for which the dealer has failed to file reports or filed false reports in violation of § 723.404 for the 3 previous marketing years. The Deputy Administrator may reduce the amount of security required in order to avoid undue hardship and shall make provision for release of the letter of credit or bond at the appropriate time.

(e) *Suspension and surrender of dealer card.* The dealer identification card shall be surrendered upon demand of the ASCS. Failure to comply with the provisions of §§ 723.404 or 723.414 or with other material provisions of this part shall be cause for suspension of the dealer identification card and the dealer shall be given 15 days to complete all necessary compliance measures or to show cause why the card should not remain suspended.

§ 723.403 [Amended]

5. In § 723.403, paragraph (k)(3)(i) is amended by adding after the word "location" and the comma that follows that word, the words "provided further that if on inspection it is determined that there is damaged tobacco in the warehouse or otherwise on hand, no carryover credit for the next marketing year shall be allowed for the damaged tobacco and the amount of pounds of damaged tobacco shall be deducted from the operator's purchase credit for the current year,".

6. Section 723.403 is amended by adding paragraph (k)(5)(iv) to read as follows:

§ 723.403 Auction warehouse operators' records and reports.

* * * * *

(k) * * *

(5) * * *

(iv) If upon reinspection by a representative of ASCS, there is an amount of tobacco determined to be damaged tobacco, the pounds of damaged tobacco shall be deducted from the purchase credit, if not done so previously, and no carryover credit shall be allowed for such damaged tobacco for the next marketing year.

* * * * *

7. Section 723.404 is amended by adding paragraph (d)(5)(v) and a sentence at the end of paragraph (d)(7) to read as follows:

§ 723.404 Dealer's records and reports, excluding cigar tobacco buyers.

* * * * *

(d) * * *

(5) * * *

(v) If upon inspection by a representative of ASCS, there is an amount of tobacco determined to be damaged tobacco according to § 723.104, such amount of pounds shall be deducted from the purchase credit and no carryover credit shall be allowed for such damaged tobacco for the next marketing year.

* * * * *

(7) * * * If upon reinspection by a representative of ASCS, there is an amount of tobacco determined to be damaged tobacco according to § 723.104, such amount of pounds shall be deducted from the purchase credit and no carryover credit shall be allowed for such damaged tobacco for the next marketing year.

* * * * *

8. Section 723.406 is amended by revising paragraph (a) to read as follows:

§ 723.406 Provisions applicable to damaged tobacco and to purchases of tobacco from processors or manufacturers.

(a) *Damaged tobacco.* Any dealer, warehouse operator, or other person who intends to purchase damaged tobacco shall notify the State ASCS office where the warehouse operator or dealer is registered or should be registered. Such report must be made at least 2 business days in advance of the purchase so as to allow for inspection arrangements to be made. The inspection shall be conducted by an ASCS representative and no purchase credit shall be allowed the buyer for the quantity determined to be damaged tobacco. Damaged tobacco may be disposed of without incurring a penalty only if the tobacco is destroyed and the destruction is witnessed by an ASCS representative or the tobacco is sold directly to a processor or manufacturer and such sale is reported to the same State ASCS office. Any tobacco not disposed of in that manner shall be deemed to have been a marketing of excess tobacco and will be subject to a penalty at the full penalty rate for the quantity of tobacco involved.

* * * * *

9. Section 723.408 is amended by adding a new paragraph (a)(3) to read as follows:

§ 723.408 Producer's records and reports.

(a) * * *

(3) Any report of a marketing of tobacco by a producer or any use of a producer's marketing card to sell the tobacco or to pledge the tobacco for a price support loan shall be considered the filing of a false report by the producer and the remedies provided in

paragraph (a)(1) of this section shall apply if, under the provisions of part 1464 of this title, the producer was not considered to have been an "eligible producer" with respect to such marketing or other disposition of tobacco.

* * * * *

10. Section 723.409 is amended by revising the heading for paragraph (b) and adding a new paragraph (b)(4) to read as follows:

§ 723.409 Producer penalties; false identification and related issues.

* * * * *

(b) *Penalties for false identification or failure to account.*

* * * * *

(4) In addition to any other circumstances in which a penalty may be assessed under this part, the marketing or pledging for a price support loan of any tobacco by using the producer's marketing card, when the producer is not considered to have been an "eligible producer" under the provision of part 1464 of this title, shall be considered to be a false identification of tobacco. This remedy shall be in addition to all others as may apply.

* * * * *

§ 723.409 [Amended]

11. Section 723.409(f) is amended by inserting after the words "current marketing" the word "year".

12. Section 723.410 is amended by revising the section heading and adding a new paragraph (n) to read as follows:

§ 723.410 Penalties considered to be due from warehouse operators, dealers, buyers, and others excluding the producer.

* * * * *

(n) *Advances and other cases in which the producer's marketing card is used improperly.* For tobacco of any kind to which this part applies, if tobacco is marketed by a person by using the producer's marketing card or the tobacco is pledged for a price support loan by using that card, but under the provisions of part 1464 of this title, producer is not deemed to have been an "eligible producer" with respect to disposition for that tobacco because of an advance or other pre-auction arrangement, such disposition of the tobacco shall be considered a false identification of the tobacco and may be a marketing of excess tobacco. In such cases, the person who paid the advance, took possession of the tobacco, or made the agreement with the producer which made the producer no longer an "eligible producer" with respect to the tobacco, shall be jointly and severally liable with the producer for any penalty with respect to such disposition which is levied against the producer under the provisions of § 723.409. Additionally, if such disposition is determined to be a marketing of excess tobacco, such person shall be liable for a penalty calculated by using the penalty rate for the tobacco involved multiplied by the pounds of tobacco involved. These remedies shall be in addition to any other remedies which may apply, including but not limited to, any liability for a refund of any price support loan receipts which were paid in the name of the producer for the tobacco.

PART 1464—TOBACCO

13. The authority citation for part 1464 continues to read as follows:

Authority: 7 U.S.C. 1308, 1441, 1445, 1445–1, 1421, and 1423; 15 U.S.C. 714b, 714c.

14. Section 1464.7 is amended by adding paragraph (e) to read as follows:

§ 1464.7 Eligible Producer.

* * * * *

(e) With respect to any tobacco which is presented for price support, must have retained beneficial interest in the tobacco prior to presenting the tobacco for such loan.

(1) For purposes of this section, the producer will be considered to have retained beneficial interest in the tobacco only if such producer has complete control of and title to such tobacco, including the right to tender such tobacco to CCC for a price support loan on the date such tobacco is tendered to CCC for a price support loan, and has maintained this right and that interest in the tobacco at all times prior to presenting the tobacco for the loan.

(2) If a producer receives a monetary advance or other consideration in connection with or for such tobacco, the producer will be deemed for purposes of this section to have lost beneficial interest in such tobacco unless the producer has a written agreement with the person who provides the advance payment and such agreement accurately and fully:

(i) Sets forth the amount and date of the advance;

(ii) Sets forth the poundage on which the advance was made;

(iii) Provides that the tobacco will be sold at a producer auction through an auction warehouse at which price support is provided or will be presented for a price support loan;

(iv) Provides that as a full and final settlement on the tobacco, the full sales price at the producer auction or the full loan proceeds, will be paid to the producer minus only the following:

(A) The advance set out in the agreement; and

(B) Standard published assessments or charges for services rendered at standard published rates that apply to all tobacco of all producers, including tobacco for which no advance has been paid;

(v) Set forth the date of final settlement on the tobacco which date can be no later than the date applicable to tobacco on which no advance has been made.

(vi) States that the full profit and beneficial interest in the tobacco, and full control of the tobacco, remains with the producer and provides that the full profit and beneficial interest will remain with the producer at all times prior to any disposition of the tobacco as producer tobacco, or at a producer auction, or presenting for a price support loan.

(3) A producer will be considered to have lost beneficial interest in tobacco and thereby not be an "eligible producer" for such tobacco as of the date any advance or other pre-auction arrangement was made if CCC determines for that tobacco that:

(i) The advance per pound equalled or exceeded the producer's final net proceeds per pound on all tobacco marketed from the farm for that marketing year at producer auctions, including any tobacco on which an advance is made or the pledging of tobacco for price support loans;

(ii) A written agreement was required by paragraph (e)(2) of this section, but none has been executed; or

(iii) A written agreement was executed but did not meet the requirements of paragraph (e)(2) of this section.

(4) If tobacco is pledged for a price support loan and the producer is not then or thereafter deemed to be or to have been an eligible producer for that tobacco for purposes of placing the tobacco under such loan, then the tobacco shall be considered to have a loan value of zero. The producer and the person that took possession of the tobacco from the producer, or paid an advance, or marketed the tobacco, or disposed of the tobacco as producer tobacco, shall be jointly and severally liable for returning any loan proceeds previously paid in the name of, or for the account of, the producer. Further, the disposition of any tobacco as producer tobacco where the producer is not then or thereafter considered to have been an eligible producer with respect to such tobacco may be the subject of penalties on the grounds of false identification, excess marketings, or otherwise as

provided in part 723 of this title. These remedies are in addition to any others as may apply.

15. Section 1464.8 is amended by adding paragraph (i) to read as follows:

§ 1464.8 Eligible tobacco.

* * * * *

(i) Any tobacco with respect to which the producer is not an eligible producer under the provisions of § 1464.7 of this part shall not be eligible for a price support loan and in any case in which the producer is deemed to have ceased to have retained the status of an eligible producer due to an advance or other pre-auction arrangement, the producer's marketing card shall not be used to market such tobacco except to reflect a nonauction marketing to the person who paid an advance to the producer or took possession of the tobacco from the producer.

§ 1464.10 [Amended]

16. In § 1464.10, paragraph (j)(4) is amended by inserting after the words "Deputy Administrator" the words "or, the Deputy Administrator's designee,".

Signed at Washington, DC, on June 23, 1992.

Keith D. Bierke,

Administrator, Agricultural Stabilization and Conservation Service, and Executive Vice President, Commodity Credit Corporation.

[FR Doc. 92-15132 Filed 6-23-92; 4:44 pm]

BILLING CODE 3410-05-M

FEDERAL RESERVE SYSTEM

12 CFR Parts 225 and 262

[Regulation Y; Docket No. R-0760]

Bank Holding Companies and Change in Bank Control; Rules of Procedure

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rule.

SUMMARY: Pursuant to the Administrative Procedure Act, the Board is requesting public comment on proposed amendments to the provisions of its Rules of Procedure (Rules) and the Board's Regulation Y, Bank Holding Companies and Change in Bank Control. Section 262.3(b) of these Rules require two newspaper publications of notice of applications filed with the Federal Reserve under section 9 of the Federal Reserve Act (for membership or to establish branches), the Bank Merger Act (if a state member bank is involved), and the Bank Holding Company Act. The proposed amendments would reduce from twice to once the number of times notice must be published in a newspaper of general circulation of the filing of an application with the Board. The amendments would have no effect on public comment periods, which currently start when the first notice is published. Alternative sources of notice will continue to be available, such as the weekly list of pending applications prepared by the Board and the Reserve Banks and, in the case of Bank Holding Company Act applications, notices published in the Federal Register.

DATES: Comments on the revised proposed amendments should be submitted no later than July 29, 1992.

ADDRESSES: Comments should refer to Docket No. R-0760 and may be mailed to the Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551, to the attention of Mr. William W. Wiles, Secretary; or delivered to the Board's Mail Room between 8:45 a.m. and 5:15 p.m., or to the Board's Security Control Room outside of those hours. Both the Mail Room and the Security Control Room are accessible from the courtyard entrance on 20th Street between Constitution Avenue and C Street, NW. Comments may be inspected in room B-1122 between 9 a.m. and 5 p.m. weekdays, except as provided in § 261.8 of the Board's Rules Regarding Availability of Information, 12 CFR 261.8.

FOR FURTHER INFORMATION CONTACT: John Harry Jorgenson, Senior Attorney (202/452-3778), or Deborah M. Awai, Attorney (202/452-3594), Legal Division; Sidney M. Sussan, Assistant Director (202/452-2638), or Gary P. Knoblach, Senior Financial Analyst (202/452-3270), Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System. For the hearing impaired *only*, Telecommunication Device for the Deaf (TDD), Dorothea Thompson (202/452-3544); Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551.

SUPPLEMENTARY INFORMATION: The Administrative Procedure Act (5 U.S.C. 552(a)(1)) requires each agency to publish in the Federal Register statements that include requirements of all formal and informal procedures available and its rules of procedure. In order to fulfill this requirement, the Board has adopted Rules of Procedure (12 CFR part 262) (Rules).

Currently, § 262.3(b)(1) of these Rules requires an applicant to publish notice of the following types of applications "on the same day of each of two consecutive weeks" in a newspaper of general circulation:

(i) Application by a state bank for membership in the Federal Reserve System;

(ii) Application by a State member bank to establish a domestic branch;

(iii) Application by a State member bank for the relocation of a domestic branch office;

(iv) Application by a bank for merger, consolidation, or acquisition of assets or assumption of liabilities, if the acquiring, assuming, or resulting bank is to be a State member bank;

(v) Application by a company to become a bank holding company; and

(vi) Application by a bank holding company to acquire ownership or control of shares or assets of a bank, or to merge or consolidate with any other bank holding company.

The Board proposes to amend § 262.3(b)(1) of its Rules and a related policy statement regarding notice of applications (12 CFR 262.25) to reduce the newspaper publication requirement from twice to once. These amendments would reduce a regulatory burden associated with the filing of applications by reducing the newspaper publication costs and paperwork burden associated with applications that are subject to the publication requirement. As part of this action, the Board would amend instructions for its application forms to conform to the notice requirements in the Rules. The Board also proposes to make parallel amendments to §§ 225.14(b) and 225 23.(d) of its Regulation Y (12 CFR part 225) to conform with the revised notice requirements. This proposal would not affect the length of the public comment period for any application.

Before adopting these amendments, the Board will consider whether the action would have a serious adverse effect on actual notice of applications. Newspaper notices are only one of several means by which notice is provided to interested parties that the Board is reviewing a proposed transaction. For example, the notice required by § 262.3(b)(1) is in addition to weekly lists issued by the Board and the Reserve Banks identifying applications filed and acted upon under sections 3 and 4 of the Bank Holding Company Act (12 U.S.C. 1842 & 1843) and the Bank Merger Act (section 18(c) of the Federal Deposit Insurance Act; 12 U.S.C. 1828(c)). This list is provided to any interested party upon request, including requests for regular notice of all filings of applications.[1] The Board also

[1] *See* § 262.3(i) of the Rules and the policy statement at 12 CFR 262.25 for a more detailed description of these alternate sources of information on these applications.

publishes notice of all Bank Holding Company Act applications in the **Federal Register**. In addition, depository institutions and their holding companies may provide actual notice of upcoming corporate reorganizations to customers and to persons in their service areas in the form of press releases, news stories, and direct mail or lobby notices. In order to assist the Board in addressing this consideration, the Board specifically requests comment on the benefits that reducing the publication burden would have compared to the reduction in required newspaper notice.

Before adopting these amendments, the Board also will consider whether the amendments would have a serious adverse effect on the opportunity for public comment. Currently, § 262.3(b)(1) of the Rules provides that the first notice may appear no more than ninety calendar days prior to acceptance of the application by the applicant's Reserve Bank and that the notices must provide an opportunity for the public to give written comment on the application to the appropriate Federal Reserve Bank for at least thirty days after the date of publication of the first notice. The amendments would retain the requirements that newspaper notice must appear in a newspaper of general circulation no more than ninety calendar days prior to acceptance of an application as well as the requirement that the notice provide for a thirty day comment period. The Board invites comment on the possible affects on public notice that reducing the publication requirement can be expected to have.

Regulatory Flexibility Act Analysis

Pursuant to section 605(b) of the Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C. 601 *et seq.*), the Board does not believe that the proposed amendments would have a significant adverse economic impact on a substantial number of small entities. The proposed amendments would reduce certain regulatory burdens for all depository institutions, reduce certain burdens for small depository institutions, and have no particular adverse effect on other small entities.

List of Subjects

12 CFR Part 225

Administrative practice and procedure, Banks, banking, Federal Reserve System, Holding companies, Reporting and recordkeeping requirements, Securities.

12 CFR Part 262

Administrative practice and procedure, Federal Reserve System.

For the reasons set forth in the preamble, the Board proposes to amend title 12 of the Code of Federal Regulations, parts 225 and 262, as follows:

PART 225—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL

1. The authority citation for part 225 would continue to read as follows:

Authority: 12 U.S.C. 1817(j)(13), 1818, 1831(i), 1843(c)(8), 1844(b), 3106, 3108, 3907, 3909, 3310, and 3331-3351, and sec. 306 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (Pub. L. No. 102-242, 105 Stat. 2236 (1991)).

Subpart B—Acquisition of Bank Securities or Assets

2. Section 225.14 is amended by adding a new paragraph (b)(3) to read as follows:

§ 225.14 Procedures for applications, notices, and hearings.

* * * * *

(b) * * *

(3) *Newspaper notice.* The applicant shall cause to be published in a newspaper of general circulation in the affected community, in the form prescribed by the Board in 12 CFR 262.3(b), at least one notice soliciting public comment on the proposed acquisition.

* * * * *

Subpart C—Nonbanking Activities and Acquisitions by Bank Holding Companies

3. Section 225.23 is amended by removing the heading to paragraph (d), by revising the headings to paragraphs (d)(1) and (d)(2) and by adding a new paragraph (d)(3) to read as follows:

§ 225.23 Procedures for applications, notices, and hearings.

* * * * *

(d)(1) *Federal Register notice for listed activities.* * * *

(2) *Federal Register notice for unlisted activities.* * * *

(3) *Newspaper notice.* The applicant shall cause to be published in a newspaper of general circulation in the affected community, in the form prescribed by the Board in 12 CFR 262.3(b), at least one notice soliciting public comment on the proposed acquisition.

* * * * *

PART 262—RULES OF PROCEDURE

1. The authority citation for part 262 would continue to read as follows:

Authority: 5 U.S.C. 552.

2. In § 262.3, by redesignating paragraphs (b)(1) introductory text, (b)(1)(i) through (vi), and the flush text beginning "the applicant" and ending with "the Board" as paragraphs (b)(1)(i) introductory text, (b)(1)(i)(A) through (F), and (b)(1)(i) concluding text, respectively; by removing the words "on the same day of each of two consecutive weeks" from the newly designated paragraph (b)(1)(i) concluding text; by designating the text, following newly designated paragraph (b)(1)(i) concluding text, which begins with the sentence "The notice shall be placed in the classified" as paragraph (b)(1)(ii); and by revising the first, second and third sentences of newly designated paragraph (b)(1)(ii) to read as follows:

§ 262.3 Applications.

* * * * *

(b) * * * (1)(i) * * *

* * * * *

(ii) The notice shall be placed in the classified advertising legal notices section of the newspaper, and must provide an opportunity for the public to give written comment on the application to the appropriate Federal Reserve Bank for at least thirty days after the date of publication. Within 7 days of publication, the applicant shall submit its application to the appropriate Reserve Bank for acceptance along with a copy of the notice. If the Reserve Bank has not accepted the application as complete within ninety days of the date of publication of the notice, the applicant may be required to republish notice of the application. * * *

* * * * *

§ 262.3 [Amended]

3. In § 262.3, paragraph (b)(2) would be amended by removing the word "first" in the second sentence.

§ 262.25 [Amended]

4. In § 262.25, paragraph (a)(1) would be amended by removing the word "first" in the first sentence.

By order of the Board of Governors of the Federal Reserve System, June 23, 1992.

William W. Wiles,

Secretary of the Board.

[FR Doc. 92-15135 Filed 6-26-92; 8:45 am]

BILLING CODE 6210-01-F

12 CFR Part 250

[Docket No. R-0762]

Transactions with Affiliates

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Board is proposing to exempt from the limitations of section 23A of the Federal Reserve Act the transfer of assets and liabilities between affiliated insured depository institutions when the transfer is part of the merger or consolidation of the affiliated institutions. The proposed exemption would be available only for transactions that must be approved by the resulting insured depository institution's primary regulator under the Bank Merger Act. The exemption would be available by regulation, and transactions that meet the proposed criteria will not require additional Board review under section 23A.

DATES: Comments must be submitted on or before July 29, 1992.

ADDRESSES: Comments, which should refer to Docket No. R-0762 may be mailed to the Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551, to the attention of Mr. William W. Wiles, Secretary. Comments addressed to the attention of Mr. Wiles may be delivered to the Board's mail room between 8:40 a.m. and 5:15 p.m., and to the security control room outside of those hours. Both the mail room and the security control room are accessible from the courtyard entrance on 20th Street between Constitution Avenue and C Street, NW. Comments may be inspected in room B-1122 between 9 a.m. and 5 p.m., except as provided in § 261.8 of the Board's Rules Regarding the Availability of Information, 12 CFR 261.8.

FOR FURTHER INFORMATION CONTACT: Pamela G. Nardolilli, Senior Attorney (202/452-3289), or Christopher Bellini, Attorney (202/452-3269), Legal Division, Board of Governors of the Federal Reserve System. For the hearing impaired *only*, Telecommunications Device for the Deaf (TDD), Dorothea Thompson (202/452-3544), Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551.

SUPPLEMENTARY INFORMATION: Section 23A of the Federal Reserve Act, 12 U.S.C. 371c, regulates certain transactions between depository institutions and their affiliates, including transactions between affiliated depository institutions. Section 23A is designed to protect insured depository institutions from abuses that may result from lending and asset purchase transactions with their affiliates. In general, section 23A prohibits an insured depository institution from engaging in covered transactions (which include extensions of credit and purchases of assets) with any single affiliate in excess of 10 percent of the institution's capital and surplus. A 20 percent aggregate limit is imposed on the total amount of covered transactions by a bank with all affiliates. Under section 23A, all extensions of credit between a bank and its affiliate must meet certain collateral requirements. Section 23A also prohibits an insured depository institution from purchasing any low-quality assets from an affiliate, and requires that all transactions with an affiliate must be conducted on terms that are consistent with safe and sound banking practices.

Section 23A provides an exemption for several types of transactions. In addition, section 23A provides the Board with general authority to act by order or regulation to grant exemptions from the provisions of section 23A for any transaction where the Board determines that an exemption is consistent with the purposes of the section.

Savings associations became subject to section 23A in 1989 as part of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA), and thus, transactions between affiliated savings associations are subject to the quantitative, collateral and qualitative restrictions of section 23A.[1] The legislative history of FIRREA indicates that Congress intended the Board's general exemptive authority to extend to transactions involving savings associations where an exemption is consistent with the purposes of section 23A and with prior Board exemptions.[2]

A number of insured depository institutions recently have sought advice from the Board regarding whether the provisions of section 23A apply to transactions in which one institution acquires the assets of an affiliated institution through a merger or consolidation of the two institutions. Merger transactions involving affiliated banks generally have not been subjected to the provisions of section 23A where these transactions have been approved by a federal banking agency pursuant to the Bank Merger Act. Review of the transaction under the Bank Merger Act includes review of the financial impact of the transaction and the quality and soundness of the assets transferred in the transaction. By its terms, the restrictions imposed by section 23A do not apply to mergers involving unaffiliated depository institutions.

The Board proposes to act by regulation to grant an exemption from the section 23A limits for transactions involving the merger of affiliated insured depository institutions where the transaction is approved under the Bank Merger Act.[1] The Board requests public comment on this proposal.

Regulatory Flexibility Act Analysis

Pursuant to section 605(b) of the Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C. 601 *et seq.*), the Board does not believe that the interpretation would have a significant adverse economic impact on a substantial number of small entities. The interpretation would reduce regulatory burdens imposed by section 23A and have no particular adverse effect on other entities.

List of Subjects in 12 CFR Part 250

Federal Reserve System.

For the reasons set forth in the preamble, the Board proposes to amend title 12 of the Code of Federal Regulations, part 250, as follows:

PART 250—MISCELLANEOUS INTERPRETATIONS

1. The authority citation for part 250 would continue to read as follows:

Authority: 12 U.S.C. 248(i).

2. 12 CFR 250.241 is added to read as follows:

§ 250.241 Exemption from section 23A of the Federal Reserve Act for merger transactions between certain affiliated insured depository institutions.

(a) *Grant of exemption.* An exemption from the provisions of section 23A of the Federal Reserve Act is granted for the purchase by one insured depository institution of the assets of another insured depository institution if—

(1) The transaction represents the purchase by the insured depository institution of all or substantially all of the assets of the other institution or the merger or consolidation of the insured depository institution with the other institution, in a transaction in which only one of the insured depository institutions continues to operate; and

[1] 12 U.S.C. 1468.

[2] *See* 135 Cong. Rec. S10200 (daily ed. August 4, 1989) (statements of Senators Garn, Riegle and Sanford), and 135 Cong. Rec. H4997 (daily ed. August 3, 1989) (statements of Representatives Gonzalez and Carper).

[1] Under the Bank Merger Act, before an insured institution merges with, or acquires the branches of, another institution, it is required to file an application with its primary regulator, even if the institutions already are commonly owned.

(2) The transaction has been approved by the appropriate federal banking agency for the surviving insured depository institution pursuant to the Bank Merger Act.

(b) *Definitions.* For purposes of this section, the terms "appropriate federal banking agency" and "insured depository institution" are defined as those terms are defined in section 3 of the Federal Deposit Insurance Act.

By order of the Board of Governors of the Federal Reserve System, June 23, 1992.

William W. Wiles,

Secretary of the Board.

[FR Doc. 92-15136 Filed 6-26-92; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 327

RIN 3064-AA96

Assessments

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Proposed rule; extension of comment period.

SUMMARY: The Board of Directors (Board) of the Federal Deposit Insurance Corporation (FDIC) recently proposed to amend its regulations to increase the deposit insurance assessment to be paid by Bank Insurance Fund (BIF) members starting with the first semiannual period of calendar year 1993 and thereafter. Notice of the proposed increase appeared in the Federal Register on May 21, 1992. The FDIC Board is hereby extending the comment period for the proposed increase in the BIF assessment rate from July 20, 1992 to August 13, 1992. The intended effect of this extension is to have the comment period for the BIF assessment rate increase proposal overlap with the comment period for the BIF recapitalization proposal published elsewhere in this issue of the Federal Register.

DATES: Written comments must be received by the FDIC on the BIF assessment rate increase proposal on or before August 13, 1992.

ADDRESSES: Written comments shall be addressed to the Office of the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429. Comments may be hand-delivered to room F-400, 1776 F Street, NW., Washington, DC 20429, on business days between 8:30 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT: William R. Watson, Director, Division of Research and Statistics, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429, (202) 898-3946.

SUPPLEMENTARY INFORMATION: Recently, the FDIC Board proposed an increase in the assessment rate to be paid by BIF member institutions beginning January 1, 1993 (BIF Assessment Rate Increase Proposal). The BIF Assessment Rate Increase Proposal was published in the Federal Register on May 21, 1992, with a 60-day comment period ending on July 20, 1992 (57 FR 21623). In that document the Board noted its intention to propose, as required by statute, in the near future the initial establishment of a schedule to recapitalize the BIF over 15 years. The Board also stated its intention that the comment periods for the BIF Assessment Rate Increase Proposal and the proposed recapitalization schedule coincide for at least the final 30 days of the comment period for the BIF Assessment Rate Increase Proposal. (*Id.* at 21624.)

The proposed BIF recapitalization schedule is being published elsewhere in this issue of the Federal Register with a comment period of 45 days. Accordingly, to provide for an overlapping comment period of at least 30 days for the BIF Assessment Rate Increase Proposal and the proposed BIF recapitalization schedule, the Board is hereby extending the comment period for the BIF Assessment Rate Increase Proposal from July 20, 1992, to August 13, 1992.

By order of the Board of Directors.

Dated at Washington, DC, this 16th day of June 1992.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 92-15195 Filed 6-26-92; 8:45 am]

BILLING CODE 6714-01-M

12 CFR Part 327

RIN 3064-AB14

Assessments

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Proposed rule.

SUMMARY: As required by section 7(b) of the Federal Deposit Insurance Act (FDI Act), the Board of Directors (Board) of the Federal Deposit Insurance Corporation (FDIC) is proposing a schedule for increasing the reserve ratio of the Bank Insurance Fund (BIF) to 1.25 percent over a 15-year period. Currently, the BIF reserve ratio is significantly below that level. Pursuant to section 7(b), if the reserve ratio is less than 1.25 percent, the Board is required to take certain action intended to raise the ratio to that level. The action applicable to the existing situation under section 7(b) is the promulgation of a recapitalization schedule for raising the reserve ratio to the statutory level of 1.25 percent within 15 years. In compliance with section 7(b), the proposed recapitalization schedule specifies a target reserve ratio for each semiannual period for the next 15 years, culminating in the requisite ratio of 1.25 percent.

In connection with the proposed recapitalization schedule addressed here, the Board has also proposed an increase in the BIF semiannual assessment rate to 28 basis points effective January 1, 1993. Notice of the proposed increase appeared in the Federal Register on May 21, 1992.

The Board is aware of the uncertainties surrounding any schedule, such as the required recapitalization schedule, that is based on projections of economic conditions beyond the immediate future. For that reason, the Board recognizes that any recapitalization schedule promulgated pursuant to section 7(b) may require adjustment as economic conditions change.

DATES: Written comments must be received by the FDIC on or before August 13, 1992.

ADDRESSES: Written comments shall be addressed to the Office of the Executive Secretary, Federal Deposit Insurance Corporation, 550—17th Street, NW., Washington, DC 20429. Comments may be hand-delivered to Room F-400, 1776 F Street, NW., Washington, DC 20429, on business days between 8:30 a.m. and 5 p.m. (FAX number: (202) 898-3838). Comments will be available for inspection at the same address.

FOR FURTHER INFORMATION CONTACT: Arthur J. Murton, Deputy Director, Division of Research and Statistics, (202) 898-3938; or Jennifer L. Eccles, Senior Financial Analyst, Division of Research and Statistics, (202) 898-8537, Federal Deposit Insurance Corporation, Washington, DC.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

No collections of information pursuant to section 3504(h) of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) are contained in the proposed rule. Consequently, no information has been submitted to the Office of Management and Budget for review.

Regulatory Flexibility Act

The Board hereby certifies that the proposed rule would not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). It would not impose burdens on depository institutions of any size and would not have the type of economic impact addressed by the Act. Moreover, to the extent the proposed rule relates to the assessment rates to be paid by BIF member institutions, the Act does not apply to "a rule of particular applicability relating to rates, wages, corporate or financial structures or reorganizations thereof * * *" *Id.* 601(2). Accordingly, the Act's requirements regarding an initial and final regulatory flexibility analysis (*id.* 603 & 604) are not applicable here.

The Proposed Rule

1. Statutory Requirements

Section 7(b)(1)(C)(ii) of the FDI Act (12 U.S.C. 1817(b)(1)(C)(ii)), as amended by section 104 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (Pub. L. No. 102-242) ("FDIC Improvement Act") provides as follows:

> If the reserve ratio of the Bank Insurance Fund is less than the designated reserve ratio * * *, the [FDIC] Board of Directors shall set the semiannual assessment rates * * *—(I) that are sufficient to increase the reserve ratio * * * to the designated reserve ratio not later than one year after such rates are set; or (II) in accordance with a [BIF recapitalization] schedule promulgated by the [FDIC] * * *.

Under section 7(b)(1)(B) of the FDI Act, the BIF designated reserve ratio is 1.25 percent. BIF's actual reserve ratio (based on a year-end 1991 fund balance of approximately negative $7.0 billion) is approximately negative 0.36 percent. Because of the extent of the difference between BIF's current reserve ratio and the designated reserve ratio, it would be infeasible to set an assessment rate sufficient to increase the reserve ratio from its current level to 1.25 percent within one year. Thus, pursuant to clause (II) of section 7(b)(1)(C)(ii), the Board is proposing a BIF recapitalization schedule "in accordance with" which to determine semiannual assessment rates for BIF member institutions.

Section 7(b)(1)(C)(iii) of the FDI Act, as also amended by section 104 of the FDIC Improvement Act, requires that the BIF recapitalization schedule promulgated by the Board "specif[y], at semiannual intervals, target reserve ratios for the Bank Insurance Fund, culminating in a reserve ratio that is equal to the designated reserve ratio no later than 15 years after the date on which the schedule becomes effective." The recapitalization schedule proposed by the Board is designed to achieve the designated reserve ratio by the end of a 15-year period that begins at year-end 1991.

Recently, the Board proposed an increase in the assessment rate to be paid by BIF member institutions beginning January 1, 1993. As stated above, notice of that proposal was published in the Federal Register on May 21, 1992 (57 FR 21623).[1] In proposing the rate increase, the Board relied on the same assumptions and underlying data on which the proposed recapitalization schedule is based. Because the assessment rates in effect in the early part of the period covered by the recapitalization schedule would necessarily play an important role in the revenue projections to be used in developing the schedule, it was determined that the Board should address the rate issue before finalizing the proposed recapitalization schedule.

In its BIF rate increase proposal, the Board stated its intention that the respective comment periods for the proposed recapitalization schedule and for the BIF rate increase proposal coincide for at least 30 days. 57 *Fed. Reg.* 21624. In the Board's view, such an overlap would ensure a meaningful opportunity for public comment on the interrelationship between the two proposals. Accordingly, as announced elsewhere in this issue of the Federal Register, the Board is extending the comment period for the BIF rate increase proposal to August 13, 1992, in order to allow for comment on that proposal throughout the entire comment period for the proposed BIF recapitalization schedule. It is the Board's intention to make a final decision regarding the BIF assessment rate in conjunction with the final adoption of a recapitalization schedule.

2. Development of the Proposed Recapitalization Schedule

The necessary starting point in the development of the proposed recapitalization schedule was the current level of the reserve ratio. As noted above, BIF reserve ratio is approximately negative 0.36 percent. Given the substantial difference between this level and the goal of 1.25 percent, it was determined that the proposed schedule should cover the full 15-year period permitted by the statute.

The recapitalization schedule depends on those factors affecting the BIF. The long-term condition of the BIF and thus the reserve ratio depend directly on three major factors: the number and size of future bank failures (expressed here in terms of "failed bank assets"), the costs of resolving failures, and the amount of assessment income provided by banks. Multiplying the projected level of failed bank assets by the assumed resolution cost rate yields a projection for insurance losses over the 15-year period.[2] Because assessment income is determined by the assessment rate and the assessment base, the third variable used for purposes of this analysis was industry growth (assets and deposits).[3]

Given a set of assumptions about these three factors, it is relatively straightforward to develop a 15-year recapitalization schedule. However, analysis based on a single set of assumptions ignores the considerable uncertainty surrounding future economic conditions and their impact on these factors. To deal with this uncertainty, FDIC staff examined a range of values for failed bank assets, resolution costs, and industry growth. For each of these factors, the assumptions used range from what is considered to be reasonably optimistic to reasonably pessimistic. For each value, the staff assigned a probability that a particular assumption will occur based on historical relationships and the informed judgment of staff rather than on explicit statistical techniques applied to historical data. The range of assumptions and probabilities for each factor are summarized below in Table 1.

[1] At the same time, the Board proposed an interim risk-related assessment system, to become effective January 1, 1993. Under this proposal, which is also addressed in the May 21, 1992, issue of the Federal Register (57 FR 21617), the assessment rates to be paid by BIF members (and by members of the Savings Association Insurance Fund) would vary from institution to institution, based on certain risk-related measures. Although this proposal would result in a change from the existing system, under which all BIF members pay the same assessment rate, the proposed risk-related rate schedule is designed so that the total BIF assessment revenue to be received would correspond to the amount that would be received if all BIF members were paying a uniform, "average" rate. If the Board adopts both the BIF rate increase and interim risk-related assessment proposals, the proposed rate of 28 basis would represent this "average" rate.

[2] The level of failed bank assets is expressed in billions of dollars, while resolution costs are expressed as the percentage of loss for each dollar of failed bank assets.

[3] Growth assumptions affect the analysis in three ways. The first is through BIF revenue; as the assessment base grows, BIF revenue grows for a given assessment rate. The second is through failed bank assets, which are assumed to grow with industry assets. Finally, because the "reserve ratio" is the ratio of BIF funds to total insured deposits of BIF members, the fund balance necessary to achieve the designated reserve ratio grows along with the volume of insured deposits.

TABLE 1.—ASSUMPTIONS FOR BIF PROJECTIONS

[I(A). Short-term failed bank assets (1992–1996) (in billions of dollars)]

1992	1993	1994	1995	1996	Total	Probability (percent)
50	25	10	10	5	100	10
60	50	40	30	20	200	15
80	70	50	30	20	250	15
90	80	60	45	25	300	20
100	100	75	50	25	350	15
110	120	90	50	30	400	15
120	150	100	80	50	500	10

[I(B). Long-term failed bank assets (1997–2006)]

Percent of total assets (percent)	Probability (percent)
0.2	30
0.4	45
0.6	18
0.9	5
1.2	2

[II. Ratio of resolution costs to failed bank assets]

Ratio (percent)	Probability (percent)
14	25
17	50
20	25

[III. Deposit growth]

Rate (percent)	Probability (percent)
6	40
2	40
−2	20

The first assumption, regarding failed bank assets, was divided into two categories: Short-term (over the next five years) and long-term. The level of short-term failed bank assets depends to a great extent on the current condition of the industry. Seven assumptions were made for this factors, ranging from $100 billion to $500 billion in total failed bank assets over the 5-year period. These assumptions are based on various public and private sector forecasts. It is also assumed that the annual level falls from the current high level to more moderate levels by 1996.

The long-term failed bank assets category concerns the average level of failed bank assets that will prevail over the final decade of the 15-year period. The assumption is expressed as a ratio of failed bank assets to industry assets. This assumption is harder to predict that the short-term category, as it depends less on the current condition of banks than on the evolution of the financial services sector and the strength of the nation's economy. Historically, the ratio of failed bank assets to industry assets has been relatively low, averaging 0.04 percent between 1960 and 1979. However, with the increase in bank failures in the 1980s, the mean ratio for 1988 through 1991 was 1.03 percent, and this ratio reached 1.84 percent of industry assets in 1991. The assumptions made for purposes of the proposed recapitalization schedule range from 0.2 percent to 1.2 percent, with more weight assigned to the lower values. This reflects the FDIC's expectation that the industry will stabilize at failure rates considerably below the current high rates, but not as low as the nearly inconsequential rates that prevailed prior to the deregulation and financial innovation of the 1980s.

The second set of assumptions concerns the ratio of resolution costs as a percent of failed bank assets, expressed in present value terms. Three values are assumed: 14 percent, 17 percent, and 20 percent. The highest value is pessimistic, reflecting the experience of selected recent years. The middle value approximates the experience since the mid-1980s. The lowest value represents success in efforts to lower resolution costs.

The third set of assumptions concerns the growth in the banking industry as represented by both domestic deposits and assets. The industry historically has experienced healthy growth, averaging approximately 5 percent for assets and 7 percent for domestic deposits over the past 10 years. More recently, the industry has steadied its growth, with assets declining slightly over the past 2 years and domestic deposits increasing by only 4 percent. Three values are assumed: 6 percent, 2 percent, and −2 percent. The high growth approximates the average over the last 5 to 10 years. The middle value reflects the slower growth over the last two years, and the lowest value reflects the pessimistic view that the industry will shrink in absolute terms as a result of increased competition in the financial sector, higher assessment rates, or other circumstances.

For analytical purposes, staff projected the BIF over a 15-year recapitalization period under numerous scenarios.[4] Each scenario represented a combination of the values for each of the factors and was assigned a probability based on the combination of probabilities for each of the factors. Staff performed this exercise for different assessment rates ranging from 23 to 35 basis points over the next 15 years, and found that an assessment rate of 27 basis points appeared to be the lowest rate that would make it more likely than not that the designated reserve ratio would be achieved within 15 years, given the assumptions underlying the analysis. Having considered the results of the above analysis, the Board on May 12, 1992, proposed an increase in the BIF target average assessment rate to 28 basis points. The rate proposed, which is slightly higher than the 27 basis points referred to above, increases the likelihood that the designated reserve ratio will be achieved within the statutory 15-year period.

The results of this analysis, from which the proposed recapitalization schedule was derived, are summarized in Table 2.[5] Both the proposed schedule and Table 2 are based on a composite scenario equaling the weighted average of all assumptions and probabilities. This composite scenario thus represents the most likely scenario given the wide range of possibilities considered for insurance losses and growth. Both the proposed schedule and Table 2 show the assessment rate declining as conditions improve and assessment revenue exceeds insurance losses to the BIF.

[4] The projections took into account BIF administrative expenses, income received on investments, and interest due on borrowings.

[5] Although the proposed recapitalization schedule is based on the projections reflected in Table 2, it is also consistent with other projections. For example, it is consistent with projections that show lower insurance losses and lower assessment rates.

TABLE 2.—SUMMARY BIF PROJECTIONS

[Assessment rate of 28 basis points beginning 1993; dollars in billions]

	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006
Assumptions:															
1 Deposit and Asset growth (percent)	2.8	2.8	2.8	2.8	2.8	2.8	2.8	2.8	2.8	2.8	2.8	2.8	2.8	2.8	2.8
2 Bank industry Assets	3,526	3625	3,726	3,831	3,938	4,048	4,162	4,278	4,398	4,521	4,648	4,778	4,912	5,049	5,190
3 Insured deposits	2,048	2,105	2,164	2,225	2,287	2,351	2,417	2,485	2,554	2,626	2,700	2,775	2,853	2,933	3,015
4 Assessment Base	2,560	2,632	2,706	2,781	2,859	2,939	3,022	3,106	3,193	3,283	3,374	3,469	3,566	3,666	3,769
5 Loss Ratio (percent)	17.0	17.0	17.0	17.0	17.0	17.0	17.0	17.0	17.0	17.0	17.0	17.0	17.0	17.0	17.0
6 Failed Bank Assets	72	76	61	45	28	25	25	25	25	20	20	20	21	21	22
7 Assessment Rate (bp)	23	28	28	28	28	28	26	26	26	24	24	24	24	24	24
8 Assessments	5.8	7.2	7.4	7.6	7.8	8.1	7.7	7.9	8.1	7.7	7.9	8.2	8.4	8.76	8.7
9 Net Income	(2.9)	(2.7)	(1.8)	1.5	2.8	3.4	3.1	3.6	4.5	4.4	4.8	5.3	5.8	6.3	6.7
10 Fund	(9.9)	(12.7)	(14.5)	(13.0)	(10.2)	(6.8)	(3.6)	(0.0)	4.5	8.8	13.7	19.0	24.8	31.1	37.8
11 Ratio (percent)	−0.49	−0.60	−0.67	−0.58	−0.45	−0.29	−0.15	−0.00	−0.18	0.34	0.51	0.68	0.87	1.06	1.25

Future conditions affecting the BIF cannot be predicted with certainty. For this reason, the staff's projections encompassed a range of assumptions for each factor affecting the BIF. Future insurance losses or other conditions affecting the BIF may turn out differently than assumed for purposes of developing the proposed schedule. For instance, Table 3 illustrates what might occur if insurance losses are 25 percent lower than reflected in table 2. Similarly, Table 4 illustrates what might occur if insurance losses are 25 percent higher than reflected in Table 2. Once a recapitalization schedule is adopted, the Board plans to monitor relevant developments and, if circumstances warrant, to consider revision of the schedule, or assessment rate adjustments, based on such developments.

TABLE 3.—BIF PROJECTIONS BASED ON OPTIMISTIC SCENARIO

[Assessment rate of 28 basis point beginning 1993; dollars in billions]

	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006
Assumptions:															
1 Deposit and Asset Growth (percent)	2.8	2.8	2.8	2.8	2.8	2.8	2.8	2.8	2.8	2.8	2.8	2.8	2.8	2.8	2.8
2 Bank Industry Assets	3,526	3,625	3,726	3,831	3,938	4,048	4,162	4,278	4,398	4,521	4,648	4,778	4,912	5,049	5,190
3 Insured deposits	2,048	2,105	2,164	2,225	2,287	2,351	2,417	2,485	2,554	2,626	2,700	2,775	2,853	2,933	3,015
4 Assessment Base	2,560	2,632	2,706	2,781	2,859	2,939	3,022	3,106	3,193	3,283	3,374	3,469	3,566	3,666	3,769
5 Loss Ratio (percent)	15.0	15.0	15.0	15.0	15.0	15.0	15.0	15.0	15.0	15.0	15.0	15.0	15.0	15.0	15.0
6 Failed Bank Assets	62	66	53	39	24	22	22	22	22	17	17	17	18	18	19
7 Assessment Rate (bp)	23.0	28.0	28.0	28.0	20.0	20.0	20.0	18.0	18.0	18.0	18.0	15.0	15.0	15.0	15.0
8 Assessments	5.8	7.2	7.4	7.6	5.6	5.8	5.9	5.5	5.6	5.8	5.9	5.1	5.2	5.4	5.5
9 Net Income	(0.1)	0.7	1.5	3.6	2.4	2.9	3.1	2.9	3.5	3.9	4.2	3.6	3.9	4.2	4.6
10 Fund	(7.1)	(6.4)	(4.9)	(1.3)	1.0	3.9	7.0	9.9	13.3	17.2	21.4	25.0	28.9	33.1	37.7
11 Ratio (percent)	−0.35	−0.30	−0.23	−0.06	0.04	0.16	0.29	0.40	0.52	0.65	0.79	0.90	1.01	1.13	1.25

TABLE 4.—BIF Projections Based on Pessimistic Scenario

[Assessment rate of 28 basis points beginning 1993; dollars in billions]

	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006
Assumptions:															
1 Deposit and Asset Growth (percent)	2.8	2.8	2.8	2.8	2.8	2.8	2.8	2.8	2.8	2.8	2.8	2.8	2.8	2.8	2.8
2 Bank Industry Assets	3,526	3,625	3,726	3,831	3,938	4,048	4,162	4,278	4,398	4,521	4,648	4,778	4,912	5,049	5,190
3 Insured deposits	2,048	2,105	2,164	2,225	2,287	2,351	2,417	2,485	2,554	2,626	2,700	2,775	2,853	2,933	3,015
4 Assessment Base	2,560	2,632	2,706	2,781	2,859	2,939	3,022	3,106	3,193	3,283	3,374	3,469	3,566	3,666	3,769
5 Loss Ratio (percent)	18.8	18.8	18.8	18.8	18.8	18.8	18.8	18.8	18.8	18.8	18.8	18.8	18.8	18.8	18.8
6 Failed Bank Assets	80	85	69	50	31	28	28	28	28	22	22	22	23	24	24
7 Assessment Rate (bp)	23.0	28.0	35.0	35.0	35.0	35.0	35.0	35.0	32.0	32.0	29.0	29.0	27.0	27.0	27.0
8 Assessments	5.8	7.2	9.3	9.5	9.8	10.1	10.4	10.6	10.0	10.3	9.6	9.9	9.4	9.7	10.0
9 Net Income	(6.5)	(7.1)	(3.9)	1.2	3.0	3.7	4.7	5.3	5.6	6.2	5.8	6.4	6.2	6.8	7.4
10 Fund	(13.6)	(20.7)	(24.5)	(23.4)	(20.4)	(16.7)	(12.0)	(6.7)	(1.1)	5.1	10.9	17.3	23.6	30.4	37.7
11 Ratio (percent)	−0.66	−0.98	−1.13	−1.05	−0.89	−0.71	−0.50	−0.27	−0.04	0.20	0.41	0.62	0.83	1.04	1.25

Request for Public Comment

The Board hereby requests comment on all aspects of the proposed rule. Interested persons are invited to submit written comment during a 45-day comment period.

List of Subjects in 12 CFR Part 327

Assessments, Bank deposit insurance, Banks, Banking, Financing Corporation, Savings associations.

For the reasons stated above, the Board proposes to amend 12 CFR part 327 as follows:

PART 327—ASSESSMENTS

1. The authority citation for part 327 continues to read as follows:

Authority: 12 U.S.C. 1441, 1441b, 1817–1819.

2. Section 327.13 is amended by adding a new paragraph (d) to read as follows:

§ 327.13 Payment of assessment.

* * * * *

(d) *Recapitalization schedule.* The following schedule, which begins with the semiannual assessment period ending December 31, 1991, indicates the stages by which the Corporation seeks to achieve the BIF designated reserve ratio of 1.25 percent by the end of the year 2006:

Semi-annual period	Target reserve ratio (percent)
1991.2	−0.36
1992.1	−0.43
1992.2	−0.49
1993.1	−0.55
1993.2	−0.60
1994.1	−0.64
1994.2	−0.67
1995.1	−0.63
1995.2	−0.58
1996.1	−0.52
1996.2	−0.45
1997.1	−0.37
1997.2	−0.29
1998.1	−0.22
1998.2	−0.15
1999.1	−0.08
1999.2	−0.00
2000.1	−0.09
2000.2	−0.18
2001.1	−0.26
2001.2	−0.34
2002.1	−0.43
2002.2	−0.51
2003.1	−0.60
2003.2	−0.68
2004.1	−0.78
2004.2	−0.87
2005.1	−0.97
2005.2	−1.06
2006.1	−1.16
2006.2	−1.25

By order of the Board of Directors.

Dated at Washington, DC, this 16th of June, 1992.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson.

Executive Secretary.

[FR Doc. 92–15196 Filed 6–26–92; 8:45 am]

BILLING CODE 6714–10–M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

Small Business Size Regulations; Waiver of the Nonmanufacturer Rule

AGENCY: Small Business Administration.

ACTION: Notice of intent to waive the Nonmanufacturer Rule for various products.

SUMMARY: The Small Business Administration (SBA) is considering a waiver of the Nonmanufacturer Rule for numerically controlled surface grinders, index paper, and offset paper. The basis for waivers is that no small business manufacturers are supplying these classes of products to the Federal government. The effect of a waiver would be to allow otherwise qualified regular dealers to supply the products of any domestic manufacturer on a Federal contract set aside for small businesses or awarded through the SBA 8(a) Program. The purposes of this notice is to solicit comments and source information from interest parties.

DATES: Comments and sources must be submitted on or before July 14, 1992.

ADDRESSES: *Address Comments to:* Robert J. Moffitt, Chairperson, Size Policy Board, U.S. Small Business Administration, 409 3rd Street, SW., Washington, DC 20416, Tel: (202) 205–6460.

FOR FURTHER INFORMATION CONTACT: James Parker, Procurement Analyst, phone (703) 695–2435.

SUPPLEMENTARY INFORMATION: Public Law 100–656, enacted on November 15, 1988, incorporated into the Small Business Act the previously existing regulation that recipients of Federal contracts set aside for small businesses or SBA 8(a) Program procurement must provide the product of a small business manufacturer or processor, if the recipient is other than the actual manufacturer or processor. This requirement is commonly referred to as the Nonmanufacturer Rule. The SBA regulations imposing this requirement are found at 13 CFR 121.906(b) and 121.1106(b). Section 303(h) of the law provides for waiver of this requirement by SBA for any "class of products" for which there are no small business manufacturers or processors in the Federal market. To be considered available to participate in the Federal market on these classes of products, a small business manufacturer must have submitted a proposal for a contract solicitation or received a contract from the Federal government within the last 24 months. The SBA defines "class of products" based on two coding systems. The first is the Office of Management and Budget Standard Industrial Classification Manual. The second is the Product and Service Code established by the Federal Procurement Data System.

This notice proposes to waive the Nonmanufacturer Rule for numerically controlled surface grinders (SIC code 3541, PSC code 3415), offset paper (SIC code 2621, PSC code 7510) and index paper (SIC code 2621, PSC code 7510).

In an effort to identify potential small business sources for these classes of products, the Small Business Administration has searched its Procurement Automated Source System (PASS) and contacted several other Federal agencies. No small business sources were identified as a result of these efforts. The public is, therefore, invited to comment or provide source information to SBA on the proposed waiver of the Nonmanufacturer Rule for the three items specified.

Dated: June 15, 1992.

Robert J. Moffitt,

Chairman, Size Policy Board.

[FR Doc. 92–15101 Filed 6–26–92; 8:45 am]

BILLING CODE 8025–01–M

FEDERAL TRADE COMMISSION

16 CFR Part 433

Regulatory Flexibility Act Review of the Trade Regulation Rule Concerning Preservation of Consumers' Claims and Defenses

AGENCY: Federal Trade Commission.

ACTION: Termination of review.

SUMMARY: In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), and a published plan for Periodic Review of Commission Rules (46 FR 35,118 (July 7, 1981)), the Federal Trade Commission published a notice (53 FR 44,456 (November 3, 1988)), soliciting comments and data on whether its Trade Regulation Rule concerning Preservation of Consumers' Claims and Defenses (16 CFR part 433) (the "Rule" or "Holder Rule") has had a significant economic impact on a substantial number of small entities and, if it has, whether the Rule should be amended to minimize any such impact. The notice required comments to be submitted to the Commission no later than February 1, 1989. Based on the comments received, which are summarized in this notice, the Commission finds that there is an insufficient basis to conclude that the Rule has had a significant economic

impact upon a substantial number of small entities. The Commission, therefore, is terminating this review.

DATES: This action is effective as of June 29, 1992.

FOR FURTHER INFORMATION CONTACT: Clarke Brinckerhoff, Attorney, Federal Trade Commission, Division of Credit Practices, Washington, DC 20580, 202–326–3208.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act ("RFA") requires the Federal Trade Commission ("Commission") to conduct a periodic review of its trade regulation rules that have or will have a significant economic impact upon a substantial number of small entities. This periodic review is conducted in accordance with the Commission's Plan for the Periodic Review of Rules (46 FR 35,118 (July 7, 1981)).

I. Background and Summary

The Holder Rule was promulgated by the Commission on November 18, 1975 (40 FR 53,506) and became effective on May 14, 1976. The Rule applies to sellers who offer or arrange for consumer credit to finance consumers' purchases of their goods or services. The Rule requires sellers entering into "consumer credit contracts" [1] or accepting the proceeds of "purchase money loans" [2] to ensure that sales finance contracts and loan contracts contain one of two clauses that preserve the buyer's right to assert against any "holder" of the credit contract the sales-related claims and defenses that the buyer may have against the seller.[3] The required contractual clause uses the term "holder" to refer to a person or entity who is in possession of an instrument drawn, issued or endorsed to him, to his order, to bearer, or in blank.

In promulgating the Holder Rule, the Commission found that:

(1) In the course of arranging the financing of a consumer sale, sellers used procedures (including contractual devices) that separated the buyer's duty to pay for goods or services from the seller's reciprocal duty to perform as promised;

(2) Consumers were generally not in a position to evaluate the likelihood of seller misconduct in a particular transaction;

(3) Consumers lacked information to comprehend the significance of waivers of defenses in credit contracts or the use of promissory notes;

(4) Consumers, therefore, assumed all risks of seller misconduct; and

(5) Creditors dunned consumers and collected debts despite the consumers' claims and defenses against the sellers.

At the same time the Commission promulgated the Holder Rule, it commenced a proceeding ("Holder II") to amend the Rule to extend it to third-party creditors. 40 FR 53,530 (November 18, 1975). Because the record failed to demonstrate (1) creditor participation in cutting off consumers' claims and defenses, and (2) consumer injury after the Rule became effective, the Commission terminated Holder II in the same notice that commenced this review under the RFA (53 FR 44,456 (November 3, 1988)).

The Notice that initiated this RFA review requested comments on whether the Rule has had a significant economic impact on a substantial number of small entities and, if it has, whether it should be amended to minimize any such impact. The notice posed several questions concerning the Rule's economic impact on small entities, particularly the rate and availability of credit, and any increase or decrease in their sales as a result of the Rule. Other questions dealt more generally with the impact of the Rule on the credit marketplace, especially the relationship between creditors and sellers, and extent to which claims and defenses were in fact being asserted, relative types of credit (loans, sales, credit cards), improvement in seller performance, and costs and benefits related to these issues. A further series of questions asked whether changes should be made in the Rule, to simplify it, or to make it more useful, or to take account of state laws, technology changes, or the like. The last question specifically asked if the rule should be extended to creditors as well as sellers (the issue in Holder II). In all cases, the public was asked to (1) distinguished between small/large and new/established firms, and (2) submit factual data that supported their comments.

II. Public Comments

Ten comments were filed. The participants were four trade associations,[4] three financial institutions (two of which were related corporations),[5] one consumer representative organization,[6] one governmental entity,[7] and one individual who described himself as a teacher of college students.[8]

None of the commenters appeared to be a "small entity" that was negatively affected by the Rule.[9] Only three references were made to the impact on small entities. USLSI said it had "no evidence that the rule has had either positive or negative effects on smaller entities." Dominion stated, "The impact of the Rule on small entities has been minimal * * * ". Only GEM reported negative impact on small entities, in that GEM stopped financing such businesses.[10]

A limited, but very diverse, number of general suggestions was submitted by the commenters. The orientation of the comments was roughly equal between those that would expand the Rule, reduce the Rule, and retain the *status quo*.

One trade association representing sellers (NADA) and the consumer advocacy group (NCLC) supported expanding the Rule to cover creditors as well as sellers (*i.e.*, the approach considered in *Holder II*). One creditor (Dominion) suggested amending the Rule "to require sellers to take back any contract" where the consumer asserts a claim or defense. NCLC also advocated expanding it to cover all consumer leases and home equity loans, and asked that the Rule's applicability to federally guaranteed student loans be clarified.[11]

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[1] "Consumer credit contract" is defined as "Any instrument which evidences or embodies a debt arising from a 'Purchase Money Loan' transaction or a 'financed sale' as defined (in the Rule)." 16 CFR 433.1(i). "Financing a sale" is defined as "[e]xtending credit to a consumer in connection with a "Credit Sale' within the meaning of the Truth in Lending Act and Regulation Z." 16 CFR 433.1(c).

[2] A "purchase money loan" is defined in the Rule as a "cash advance which is received by a consumer * * * which is applied, in whole or substantial part, to a purchase of goods or services from a seller who (1) refers consumers to the creditor or (2) is affiliated with the creditor by common control, contract, or business arrangement." 16 CFR 433.1(d).

[3] The language of the required clause differs slightly depending on whether a sale finance contract or purchase money loan contract is involved. 16 CFR 433.2.

[4] American Financial Services Association (AFSA), Better Business Bureau of Metropolitan Dallas (BBB), National Automobile Dealers Association (NADA), and the United States League of Savings Institutions (USLSI).

[5] Gem Savings (GEM), Dominion Bankshares/Dominion Bank (Dominion).

[6] National Consumer Law Center (NCLC).

[7] Georgia Office of Consumer Affairs (Georgia).

[8] Roland F. Chase.

[9] For the purposes of this review under the RFA, the term "small entity" is defined under the Small Business Size Standards, codified at 13 CFR part 121.

[10] The first of the questions posed in the notice opening this proceeding specifically asked the public to comment on whether a substantial number of small entities would be significantly impacted by the Rule. 53 FR 44457 (11/3/88). The single brief comment to that effect by GEM, although relevant and pertinent, did not provide a sufficient basis for the Commission to conclude that the Rule had a significant impact on small entities.

[11] The Commission staff has provided NCLC with an opinion letter stating that such educational loans are not exempt from the Rule.

The USLSI advocated (1) limiting the scope of the Rule to defenses based on breach of warranty, misrepresentation, and fraud, (2) limiting the time that defenses can be asserted against a creditor, and (3) imposing a requirement that the consumer must attempt to obtain satisfaction from the seller before asserting defenses against a subsequent assignee/holder of the contract. GEM advocated (1) limiting the Rule's applicability to "items specifically covered in the written contract" and (2) assessing a "penalty" on consumers who assert "frivolous" claims. Dominion proposed revising the required contractual provision so that it would subject the creditors only to consumer defenses (not claims).

BBB and Georgia praised the Rule, but made no suggestions for change. The only individual commenter, Roland F. Chase, praised the Rule, but suggested that the currently required contractual terminology be revised to a more colloquial "plain English" format. AFSA praised the termination of the *Holder II* proceeding, but was otherwise silent on the Rule.

III. Conclusion

The Notice attracted limited public interest, and no participation at all by any "small entity" that claimed to be negatively impacted by the Rule. The discussion of issues relating to small entities, the parties protected by the RFA, was minimal. A number of varying suggestions were made to expand or contract the Rule, but none of these had extensive support.

After carefully considering the comments, the Commission believes that they do not present a sufficient basis to conclude that the Holder Rule has had a significant impact on a substantial number of small entities. Similarly, none of the other issues raised in the comments merit revision of the Rule at this time. The Commission is therefore terminating this review.

List of Subjects in 16 CFR Part 433

Consumer credit transactions, Federal Trade Commission, Trade practices.

By the direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 92-15193 Filed 6-26-92; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD7-92-27]

Drawbridge Operation Regulations; Gulf Intracoastal Waterway, FL

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: At the request of the Sarasota/Manatee Metropolitan Planning Council Organization (MPO) and the Florida Department of Transportation (FDOT), the bridge owner, the Coast Guard proposes to modify the regulations of the Anna Maria Drawbridge, mile 89.2, at Bradenton. This proposal is being made because of complaints about highway traffic delays. This action should accommodate the current needs of vehicular traffic while still meeting the reasonable needs of navigation.

DATES: Comments must be received on or before August 13, 1992.

ADDRESSES: Comments may be mailed to Commander (oan), Seventh Coast Guard District, 909 SE. 1st Avenue, Miami FL 33131-3050, or may be delivered to room 406 at the above address between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. For information concerning comments the telephone number is 305-536-4103.

The Commander, Seventh Coast Guard District maintains the public docket for this rulemaking. Comments will become part of this docket and will be available for inspection or copying at the above address.

FOR FURTHER INFORMATION CONTACT: Ian MacCartney, Project Manager at (305) 536-4103.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this rulemaking [CGD-92-27] and the specific section of this proposal to which each comment applies, and give the reason for each comment. Each person wanting acknowledgment of receipt of comments should enclose a stamped, self-addressed postcard or envelope.

The Coast Guard will consider all comments received during the comment period. It may change this proposal in view of comments.

The Coast Guard plans no public hearing. Persons may request a public hearing by writing to Mr. Ian MacCartney at the address under "**ADDRESSES.**" If it determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the Federal Register.

Drafting Information

The principal persons involved in drafting this document are Ian MacCartney, Project Manager, and LT. J. M. Losego, Project Counsel.

Background and Purpose

This drawbridge presently opens on signal except that from 9 a.m. to 6 p.m. on Saturdays, Sundays and federal holidays the draw need open only on the hour, quarter hour, half hour and three-quarter hour. From December 1 to May 31, Monday through Friday, from 9 a.m. to 6 p.m., the draw need open only on the hour, quarter-hour, half-hour, and three-quarter hour. The MPO and the bridge owner have requested that the bridge be allowed to open only on the hour and half-hour from 7 a.m. to 6 p.m. weekdays and from 9 a.m. to 6 p.m. on weekends.

Discussion of Proposed Amendments

A Coast Guard evaluation of the proposal concluded that highway traffic levels and frequency of bridge openings did not justify the proposed 30 minute opening schedule for a drawbridge on the Gulf Intracoastal Waterway. However, in order to reduce traffic congestion, increasing the seasonal schedule to a daily, year around 20 minute schedule from 7 a.m. to 6 p.m., appears to be warranted. These changes should reduce traffic delays without unreasonably impacting navigation.

Regulatory Evaluation

This proposal is not major under Executive Order 12291 and not significant under the Department of Transportation regulatory policies and procedures (44FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full regulatory evaluation is unnecessary. We conclude this because the rule exempts tugs with tows.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the Coast Guard must consider whether this proposal will have a significant economic impact on a substantial number of small entities.

"Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632). Since tugs with tows are exempt from this proposal, the economic impact is expected to be so minimal, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposal, if adopted, will not have a significant impact on a substantial number of small entities.

Collection of Information

This proposal contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 et seq.).

Federalism

The Coast Guard has analyzed this proposal in accordance with the principles and criteria contained in Executive Order 12612, and has determined that this proposal does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this proposal and concluded that, under section 2.B.2.g(5) of Commandant Instruction M16475.1B, promulgation of operating requirements or procedures for drawbridges is categorically excluded from further environmental documentation. A Categorical Exclusion Determination is available in the docket for inspection or copying where indicated under "**ADDRESSES**".

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons set out in the preamble, the Coast Guard proposes to revise 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g).

2. In § 117.287, paragraph (d)(2) is revised to read as follows:

§ 117.287 Gulf Intracoastal Waterway.

* * * * *

(d)(2) The draw of the Anna Maria (SR 64) bridge, mile 89.2, shall open on signal; except that from 7 a.m. to 6 p.m., the draw need open only on the hour, twenty minutes past the hour and forty minutes past the hour.

* * * * *

Dated: June 9, 1992.

Robert E. Kramek,

Rear Admiral U.S. Coast Guard Commander, Seventh Coast Guard District.

[FR Doc. 15220 Filed 6–26–92; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–4148–3]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: United States Environmental Protection Agency.

ACTION: Notice of intent to delete the Paganos Salvage site from the National Priorities List: Request for comments.

SUMMARY: The Environmental Protection Agency (EPA) Region 6 announces its intent to delete the Pagano Salvage site from the National Priorities List (NPL) and requests public comment on this action. The NPL constitutes appendix B to the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended. EPA and the State of New Mexico (New Mexico Environment Department) have determined that all appropriate actions under CERCLA have been implemented and that no further cleanup is appropriate. Moreover, EPA and the State have determined that response activities conducted at the site have been protective of public health, welfare, and the environment.

DATES: Comments concerning this site may be submitted on or before July 28, 1992.

ADDRESSES: *Comments may be mailed to:* Mr. Donn Walters, Community Relations Coordinator, U.S. EPA, Region 6 (6H–MC), 1445 Ross Avenue, Dallas, Texas 75202–2733.

Comprehensive information on this site is available through the EPA Region 6 public docket, which is located at EPA's Region 6 library office and is available for viewing from 8 a.m. to 5 p.m., Monday through Friday, excluding holidays. The office address is: U.S. EPA, Region 6, Library, 12th Floor, 1445 Ross Avenue, Dallas, Texas 75202, (214) 655–6444.

Background information from the regional public docket is available for viewing at the Pagano Salvage site information repositories located at:

Los Lunas Public Library, 460 Main Street, Los Lunas, New Mexico

New Mexico Environment Department, Superfund Section, 1190 St. Francis Drive, Santa Fe, New Mexico 87031

FOR FURTHER INFORMATION CONTACT: Mr. Carlos A. Sanchez, U.S. Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, (214) 655–6710.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

The U.S. Environmental Protection Agency (EPA) Region 6 announces its intent to delete the Pagano Salvage site, Los Lunas, New Mexico, from the National Priorities List (NPL), which constitutes appendix B of the National Oil and Hazardous Substances Pollution Contingency Plan, 40 CFR part 300 (NCP), and requests comments on the deletion. The EPA identifies sites that appear to present a significant risk to public health, welfare, or the environment, and maintains the NPL as the list of those sites. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substance Superfund Response Trust Fund (Fund). Pursuant to § 300.425(e)(3) of the NCP, any site deleted from the NPL remains eligible for Fund-financed remedial actions if conditions at the site warrant such action.

The EPA will accept comments concerning this proposal for thirty (30) days after publication of this notice in the **Federal Register**.

Section II of this notice explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses the history of this site and explains how the site meets the deletion criteria.

II. NPL Deletion Criteria

The NCP establishes the criteria that the Agency uses to delete sites from the NPL. In accordance with 40 CFR 300.425(e)(1), sites may be deleted from or recategorized on the NPL where no further response is appropriate. In making a determination to delete a release from the NPL, EPA shall consider, in consultation with the state, whether any of the following criteria have been met:

(i) Responsible parties or other persons have implemented all appropriate response actions required; or

(ii) All appropriate Fund-financed response under CERCLA has been implemented, and no further response action by responsible parties is appropriate; or

(iii) The response action has shown that the release poses no significant threat to public health or the environment and, therefore, taking of remedial measures is not appropriate.

Prior to deciding to delete a site from the NPL, EPA must determine that the remedy, or existing site conditions at sites where no action is required, is protective of public health, welfare, and the environment.

Deletion of a site from the NPL does not preclude eligibility for subsequent Fund-financed actions if future site conditions warrant such actions. Section 300.425(e)(3) of the NCP states that Fund-financed actions may be taken at sites that have been deleted from the NPL.

III. Deletion Procedures

In the NPL rulemaking published on October 15, 1984 (49 FR 40320), the Agency solicited and received comments on whether the notice of comment procedures followed for adding sites to the NPL also should be used before sites are deleted. Comments also were received in response to the amendments to the NCP proposed on February 12, 1985 (50 FR 5862). Formal notice and comment procedures for deleting sites from the NPL were subsequently added as a part of the March 8, 1990 amendments to the NCP (55 FR 8666, 8846). Those procedures are set out in § 300.425(e)(4) of the NCP. Deletion of sites from the NPL does not itself create, alter, or revoke any individual's rights or obligations. The NPL is designed primarily for informational purposes and to assist Agency management.

Upon determination that at least one of the criteria described in § 300.425(e)(1) has been met, EPA may formally begin deletion procedures. The following procedures were used for the intended deletion of this site:

(1) EPA Region 6 and the State of New Mexico agreed, in the no-further-action Record of Decision, that the five-year review was not warranted.

(2) EPA Region 6 has recommended deletion and prepared the relevant documents.

(3) The State of New Mexico has concurred with the deletion decision.

(4) Concurrent with this National Notice of Intent to Delete, a local notice has been published in local newspapers and has been distributed to appropriate Federal, State, and local officials, and other interested parties.

(5) The Region has made all relevant documents available in the Regional Office and local site and State of New Mexico information repositories.

These procedures have been completed for the Pagano Salvage site. This **Federal Register** notice, and a concurrent notice in the local newspaper in the vicinity of the site, announce the initiation of a 30-day public comment period and the availability of the Notice of Intent to Delete. The public is asked to comment on EPA's intention to delete the site from the NPL; all critical documents needed to evaluate EPA's decision are included in the information repository and deletion docket.

Upon completion of the 30-day public comment period, the EPA Regional Office (Region 6) will evaluate these comments before the final decision to delete. The Region will prepare a Responsiveness Summary, which will address comments received during the public comment period. The responsiveness summary will be made available to the public at the information repository. Members of the public are welcome to contact the EPA Regional Office to obtain a copy of the responsiveness summary, when available. If EPA still determines that deletion from the NPL is appropriate after receiving public comments, a final notice of deletion will be published in the **Federal Register**. However, it is not until a notice of deletion is published in the **Federal Register** that the site would be actually deleted.

IV. Basis for Intended Site Deletion

The following summary provides the Agency's rationale for deleting the Pagano Salvage site from the NPL.

The Pagano Salvage site is located at 102 Edeal Road, Los Lunas, Valencia County, New Mexico. The 1.4 acre site was and is used to operate a salvage business and includes a residence. The site has operated as a salvage business since the early 1960s.

Site investigations conducted by the New Mexico Environmental Improvement Division, now the New Mexico Environment Department (NMED), and EPA between 1984 and 1988 found on site soils contaminated with PCB concentrations as high as 2310 ppm. Off-site PCB concentrations did not exceed the Toxic Substances Control Act (TSCA) cleanup action levels (50 ppm) or cleanup levels (less than 10 ppm PCBs) for nonrestricted land usage. In sediment samples taken from the adjacent Peralta Riverside Drain, PCB concentrations did not exceed 0.5 ppm. Fish sampled from the Peralta Drain were found to contain PCB levels generally below 1.0 ppm and a maximum of 1.7 ppm. These levels are below the Food and Drug Administration (FDA) "advisory level" of 2.0 ppm for edible portions of fish and well below the FDA's "action level" of 5.0 ppm. No PCB contamination was detected in water samples collected from the adjacent surface drains, the residential wells, or the site monitoring wells.

Based on these investigations which found soils, limited to the site, contaminated with PCB concentrations exceeding TSCA's cleanup action levels of 50 ppm, the site was proposed to the National Priorities List (NPL) in June 1988 and promulgated on October 4, 1989. As a result of the high concentrations of PCBs detected and the potential health risk to people living and working on site, the Environmental Protection Agency's (EPA) Region 6, Emergency Response Branch conducted a removal action at the site from June 1989 through January 1990.

All salvageable materials containing PCB-contaminated oil were removed by Sandia National Laboratories (SNL) during several cleanup operations conducted in 1984, 1985, and 1988. PCB-contaminated materials stored at the SNL facility were in turn disposed of by ENSCO, Sandia's PCB disposal contractor.

EPA's remediation activities at the Pagano Salvage site consisted of removing approximately 5,100 cubic yards of soil and debris contaminated with PCBs exceeding the health-based level of 10 ppm. This consisted of removing a minimum of 10 to 12 inches of soil across the entire site and covering remaining low levels (less the 10 ppm PCBs) with clean soil. This remediation meets the requirements for nonrestricted land usage and represents approximately a one in one hundred thousand (1×10^{-5}) excess cancer risk. This risk level means that one person in one hundred thousand, assuming daily ingestion of .0001 kg/day of PCBs at a concentration of 10 ppm for 70 years, is at risk of getting cancer. This level is consistent with EPA's regulatory goal of ensuring protection to an excess cancer risk of between 1×10^{-4} and 1×10^{-6}. All contaminated soil and debris removed from the site were disposed of at a permitted facility authorized to receive such wastes pursuant to TSCA and the Resource Conservation and Conservation and Recovery Act (RCRA). EPA's removal action achieved cleanup standards set by Federal and State Applicable or Relevant and Appropriate Requirements (ARARs). No

state regulations were more stringent than Federal ARARs.

At the conclusion of EPA's removal activities, post removal confirmatory soil sampling was conducted along with the installation of five (5) ground water monitoring wells for future monitoring of the shallow aquifer. Analyses of soil samples taken after the removal action detected no PCB contamination above TSCA cleanup levels. No ground water contamination was detected in the samples analyzed. As part of the remedial process, results of EPA's removal action and initial monitoring well sampling were analyzed for the need to conduct further studies. Based on review of previous site investigations, EPA's removal activities and monitoring well results, it was determined that further remediation was not necessary under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). A formal Remedial Investigation/Feasibility Study was not conducted.

The Proposed Plan for the Record of Decision was released for the thirty (30) day public comment period on August 15, 1990. The Proposed Plan recommended that as a result of EPA's removal action at the site, no further remedial action was warranted. EPA also conducted a meeting with city and county officials to discuss the Proposed Plan. The officials concurred with EPA's recommendation.

No public comments were submitted on EPA's Proposed Plan. The only comments received came from the site owner/operator who favored EPA's recommendation. Based on the community response, it was determined that no change to EPA's Proposed Plan was necessary.

The Record of Decision (ROD) was signed by the Regional Administrator on September 27, 1990. The No Further Remedial Action ROD recommendation includes: No further remedial action, one year of confirmatory ground water sampling by EPA after signing of the ROD, and no long-term management controls. The five-year review requirements of Section 121 (c) of the Superfund Amendments and Reauthorization Act are not applicable to the Pagano Salvage site because PCBs do no remain in the soil above levels that would prevent unlimited use and unrestricted access to the site. Additionally, remaining low levels of PCBs are covered with 10 to 12 inches of clean soil and meet TSCA's cleanup criteria for nonrestricted land usage. No operation and maintenance will be required at the Pagano Salvage site.

As part of the one-year confirmatory ground water sampling, EPA and NMED collected ground water samples from residential wells and site monitoring wells in January and June 1991. These sampling events meet the State requirement that ground water samples be collected during different seasonal ground water conditions. Analytical results show no PCB contamination in the shallow ground water aquifer. The analytical results are included in the Administrative Record and referenced in the deletion docket.

EPA's removal action addressed the PCB contamination found at the Pagano Salvage site. No PCB contamination remains on site at concentrations which exceed TSCA cleanup levels. Confirmatory soil sampling was conducted during EPA's removal activities ensuring that remaining PCBs did not exceed TSCA's cleanup criteria for nonrestricted land usage (10 ppm PCBs or less). Remaining low levels of PCBs were covered with clean soil which provide further assurance that the site no longer poses any threats to human health or the environment. Additionally, confirmatory ground water sampling has verified that no PCB ground water contamination is present at the site. Therefore, EPA's removal action is protective of public health and the environment and the site meets EPA's deletion criteria.

EPA, with concurrence of the State of New Mexico, has determined that all appropriate Fund-financed response under CERCLA at the Pagano Salvage site has been implemented, and that no further response action by responsible parties is appropriate.

Dated: June 9, 1992.

Joe D. Winkle,

Acting Regional Administrator, U.S. EPA—Region 6.

NPL Deletion Docket Pagano Salvage Site Los Lunas, New Mexico

National Priorities List Deletion Docket

Pagano Salvage Site—Los Lunas, New Mexico

- Sampling Inspection at the Waste Electric Transformer Site #4 (Pagano Salvage), Los Lunas, NM. Dated July 15, 1986.
- Sampling Inspection at the Waste Electric Transformer Site #4 (Pagano Salvage). Dated August 24, 1987.
- Sampling collection and analysis of soil permeability taken during a field hydraulic conductivity test. Dated January 5, 1988.
- Drinking Water Well Samples collected for the Pagano Salvage Site, Los Lunas, NM. Dated March 22, 1988.
- Organic Laboratory Results for Pagano Salvage. Dated March 29, 1988.
- Action Memorandum. Dated March 23, 1989. Removal and off-site disposal of contaminated soil.
- Results of PCB-contaminated soil taken from the Pagano site in Los Lunas, New Mexico. Dated October 17, 1989.
- Results of twenty-seven soil samples that were received on December 18, 1989 for PCB analysis (Aroclors 1254 & 1260).
- Results of twenty-two (22) soil samples that were taken on January 9, 1990 for PCB analysis (Aroclors 1254 and 1260).
- Results from eighteen (18) soil samples and one water sample analyzed for PCB, (Aroclors 1254 and 1260). Dated February 6, 1990.
- Final Installation and Sampling Activities Report for the Pagano Salvage Site in Los Lunas, New Mexico. Dated April 25, 1990.
- The OSC's report of the removal action at the Pagano Salvage Yard, Valencia County, Los Lunas, New Mexico. Dated August 10, 1990.
- EPA Proposed Plan of Action. Dated August 30, 1990.
- NMED Consurrence Letter to EPA's Proposed Plan. Dated September 18, 1990.
- Record of Decision. Dated September 27, 1990.
- Analytical Results for Ground Water Samples Collected in January 1991.
- Analytical Results for Ground Water Samples Collected in June 1991.
- Superfund Site Close Out Report, Pagano Salvage Site, Los Lunas, Valencia County, New Mexico, September 1991.
- State of New Mexico Environment Department (NMED) Concurrent Letter to initiate the NPL Deletion process. Dated January 22, 1992.

[FR Doc. 92-15113 Filed 6-26-92; 8:45 am]
BILLING CODE 6560-50-M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 234

[FRA Docket No. RSGC-5; Notice No. 1]

RIN 2130—AA70

Timely Response to Grade Crossing Signal System Malfunctions; Notice of Proposed Rulemaking

AGENCY: Federal Railroad Administration (FRA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: FRA proposes to require that railroads take specific and timely actions to protect the travelling public and railroad employees from the hazards posed by malfunctioning highway-rail grade crossing warning systems. This action is taken in response to a statutory requirement that FRA "issue such rules, regulations, orders, and standards as may be necessary to ensure the safe maintenance, inspection, and testing of signal systems and devices at railroad highway grade crossings."

DATES: Written comments must be received no later than Friday, September 11, 1992. Comments received after that date will be considered to the extent possible without incurring additional expense or delay.

A public hearing will be held at 10 a.m. on Thursday, September 3, 1992. Any person who desires to make an oral statement at the hearing is requested to notify the Docket Clerk at least five working days prior to the hearing, by telephone or by mail, and to submit three copies of the oral statement that he or she intends to make at the hearing.

ADDRESSES: Written comments should be submitted to the Docket Clerk, Office of Chief Counsel, FRA, 400 Seventh Street SW., Washington, DC 20590. Persons desiring to be notified that their written comments have been received by FRA should submit a stamped, self-addressed postcard with their comments. The Docket Clerk will indicate on the postcard the date on which the comments were received and will return the card to the addressee. Written comments will be available for examination, both before and after the closing date for comments, during regular business hours in room 8201 of the Nassif Building at the above address.

A public hearing will be held in room 2230 of the Nassif Building, 400 Seventh Street, SW., Washington, DC. Persons desiring to make oral statements at the hearing should notify the Docket Clerk by telephone (202–366–2257) or by writing to the Docket Clerk at the address above.

FOR FURTHER INFORMATION CONTACT: Bruce F. George, Chief, Highway-Rail Crossing and Trespasser Programs Division, Office of Safety, FRA, 400 Seventh Street, SW., Washington, DC. 20590 (telephone 202–366–0533), or Mark Tessler, Trial Attorney, Office of Chief Counsel, FRA, 400 Seventh Street, SW., Washington, DC 20590 (telephone 202–366–0628).

SUPPLEMENTARY INFORMATION:

Background

Section 23 of the Rail Safety Improvement Act of 1988 (Pub. L. 100–342) amended section 202 of the Federal Railroad Safety Act of 1970, 45 U.S.C. 431, by adding new subsection "q" as follows: "The Secretary shall, within one year after the date of the enactment of the Rail Safety Improvement Act of 1988, issue such rules, regulations, orders, and standards as may be necessary to ensure the safe maintenance, inspection, and testing of signal systems and devices at railroad highway grade crossings." On September 23, 1991, FRA published a final rule requiring that railroads report instances of grade crossing signal system failures; file copies of their standards governing the maintenance, testing and inspection of grade crossing signal devices and file grade crossing system profiles with FRA. 56 FR 33722. That final rule, issued as new part 234 of title 49 of the Code of Federal Regulations, was the result of a series of proceedings dating back to the late 1970's. More detailed discussions concerning those rulemakings are contained in the preamble to the rule and in the Notice of Proposed Rulemaking (55 FR 38707) published on September 20, 1990 and in the Advance Notice of Proposed Rulemaking (53 FR 47554) published on November 23, 1988.

The earlier proceedings focused on the questions related to the need for Federal standards on periodic maintenance, inspection, and testing of grade crossing warning systems. FRA determined that before we could establish the scope and content of possible Federal standards, more accurate factual information regarding the type and causes of failure is needed. The information we will receive from the railroad industry pursuant to the rules published in the **Federal Register** on July 23, 1991, will provide much of that needed information.

While the frequency and primary cause(s) of warning system failure are undetermined at this time, we believe the risks to the travelling public and railroad employees from grade crossing accidents resulting from system failures can be reduced. It is important to note that the active grade crossing warning systems in place at the nation's highway-rail grade crossings are designed to fail in a "fail-safe" mode. If a component or circuitry fails, the device is designed to fail in such a manner that the warning is activated, thus in theory preventing a motorist from entering onto the tracks in front of a train. This system has worked for many years—indeed, it works to the extent that a problem of "credibility" exists, at least in some communities. If a system that fails-safe constantly warns of an oncoming train that does not appear for hours, a motorist will lose faith in the warning system and at some point will attempt to cross the railroad tracks.

FRA does not take issue with the basic design theory of "fail-safe" warning devices—they are true lifesaving devices. However, the fail-safe feature loses its effectiveness as time goes by without repair of the warning system and its return to fully functioning status.

Failure of a device to activate when a train is approaching creates an obvious and acute risk. Indeed, an otherwise cautious motorist could be entrapped by the failure to warn. Although activation failures are rare events and railroads typically respond with appropriate dispatch, adding further impetus to appropriate diagnosis and response is warranted by the critical nature of the risk.

Therefore, FRA is today issuing this Notice of Proposed Rulemaking in which railroads would be required to take certain steps when they are notified of either activation failures or false activations. These steps, designed to assure the safety of the travelling public and railroad employees, are not unknown to the railroad industry. They require the railroad to take the following three series of steps after learning of a malfunctioning warning system: (1) Notify trains and highway traffic authorities of the malfunction; (2) take appropriate actions to warn and control highway traffic pending inspection and repair of the system; and (3) repair the system. Virtually all railroads take some of these steps in some form at the present time. Railroad representatives testified in earlier proceedings that railroads attempt to repair malfunctioning devices as promptly as possible. Many railroads also have operating rules that require "protection of the crossing" in the event of an activation failure. However, information available to FRA indicates that there are few, if any, rules requiring specific responses in the event of false activations.

The proposed rules do not establish a specific time frame for repair of malfunctioning warning systems. Setting a specific repair time would necessitate establishing a schedule of various defects together with approved repair periods. Not only is a system of this type very cumbersome to establish and monitor, it would not take into consideration the operating

environments and capabilities of various railroads. Larger railroads generally have a greater capability to keep sufficient inventory of commonly needed components so that repair time can be kept to a minimum in many situations. Smaller railroads often do not have that advantage. In many situations, components must be ordered from suppliers or manufacturers, resulting in repair delay. Delays can also be exacerbated by the need to find a replacement for equipment that might have been installed 20 or 30 years earlier.

Rather than look to speed of repair as a criterion of safety, FRA proposes to maintain safety while the warning system is out of service by requiring an equivalent level of warning and protection. That safety level would be ensured by having one or more people flag a crossing as a train crosses in the event of activation failure and by having one or more people control traffic in the event of a system's false activation.

Section-by-Section Analysis

Section 234.5(e) "Credible report of system malfunction means specific information regarding a malfunction at an identified highway-rail crossing supplied by an identified railroad employee, police officer, highway traffic authority, or an individual who has provided his or her name together with a telephone number or other means of contact, and who does not have a history of making false or misleading reports to the railroad pertaining to system malfunctions." Provisions in subpart C require that the railroad respond to reports of system malfunctions. This definition of "credible report of system malfunction" is meant to ensure that the railroad will only be responding to legitimate malfunction reports. In an attempt to bar crank calls or calls from disgruntled individuals, the railroad may request a "call-back" number from the reporting individual. Absent this call-back number, or equivalent identifying information such as home address, a railroad has no obligation to respond to the report. Additionally, a railroad does not need to respond to a report from an individual who has a history of making false or misleading malfunction reports to the railroad.

Section 234.5(f) "Appropriately equipped means equipped with bright orange clothing such as a vest, shirt or jacket together with an orange hat to improve visibility. For nighttime conditions, the orange clothing must be reflectorized with orange, white or yellow retroreflective material. Required traffic control tools include combination "STOP"/"SLOW" hand paddle or pole type paddle signs at least 18 inches in width, with letters at least 6 inches high, or a bright red flag at least 24 inches by 24 inches in size. Nighttime flagging requires proper illumination of flagger and equipment. A well-lighted flagging station or a reflectorized paddle sign plus a flashlight, lantern, or other lighted signal that will display a red warning light shall be used." This definition is adopted from "Flagging Handbook" (Fifth Edition, July 1988) published by the American Traffic Safety Services Association and previously published by the Federal Highway Administration.

Persons needing to be appropriately equipped are those persons, either non-train crew railroad employees, or others acting on behalf of the railroad, who flag highway traffic at grade crossings with malfunctioning warning systems. The requirement that persons be appropriately equipped does not apply to train crew members who, in an emergency situation, dismount from a locomotive to flag the train through the crossing. While we encourage everyone flagging a crossing to be so equipped, we do not propose the costly requirement that all train crews be so equipped. Comment is requested, however, regarding what minimum equipment may be necessary to ensure the safety of train crew members performing this function while also ensuring that motorists are adequately alerted.

Section 234.5(g) "Warning system malfunction" means the false activation or activation failure of a highway-rail grade crossing warning system.

Section 234.101. Employee notification rules. This section requires that each railroad issue operating rules requiring their employees to notify, by the fastest means available, appropriate railroad officials of warning system malfunctions. Most railroads have a similar rule, generally in conjunction with a requirement that malfunctioning train control signal systems be reported. Individual railroads may determine that the dispatcher is the appropriate official to be contacted, while other railroads may decide that a different official is best placed to receive and take action on reports of malfunctions.

Section 234.103. Duty to inspect, test, and repair. Subsection (a) requires that upon receiving a credible report of a warning system malfunction, a railroad has a duty to inspect, test, and repair the system within a reasonable period to time. Pending correction or repair of the warning system, the railroad must provide alternative means of protecting the highway user and railroad passenger and employee in accordance with the rule. Acceptable alternative means of protecting the travelling public and railroad employees are listed in section 105(c) and 107(b) for situations of activation failure and false activation, respectively.

Subsection (b) provides an exception to the response requirement of subsection (a). A railroad is not required to respond to a credible report of malfunction if reliable information available to the railroad indicates that the warning system is, in fact, functioning properly and that the details contained in the credible report of the alleged malfunction are consistent with the facts known by the railroad that lead it to determine that no malfunction exists.

This provision is intended to address the situation in which, from a non-railroad observer's perspective, a malfunction has occurred, but railroad personnel are aware of the circumstances at the subject crossing and the reason for the perceived malfunction. For example, a false activation may be reported by a motorist who sees what is clearly a maintenance crew with equipment on the tracks 150 feet from the crossing. Although maintenance equipment is generally designed so as not to shunt, or activate, the railroad's train control signal system and grade crossing signals, in some cases momentary shunting will occur. From the motorist's perspective, the gates and lights should not be activated, and thus the railroad should respond to a malfunctioning warning system. However, the railroad dispatcher is aware of the location of the maintenance crew and the type of equipment at the crossing that would likely activate the warning system.

Similarly, an activation failure may be reported when a motorist sees a train 150 feet from the crossing, but sees downed gates go up, and flashing lights turn off. The motorist provides a credible report to the railroad, but the railroad official is aware that there is a motion detector at the crossing that only activates upon movement of the locomotive. While it may be disconcerting to the motorist to see the gates activate as the locomotive approaches and then cease activation while the locomotive, with engine and headlight on, idles nearby, there is no action that is required of the railroad.

It is important to note that the circumstances of the report must be consistent with the facts known by the railroad that lead it to determine that no malfunction exists. Thus, in the last example, if a motorist states that a train

had passed through the crossing without activating the gates and lights, a railroad response would be necessary.

Subsection (c) provides that nothing in the regulations requires repair or correction of a warning system, if, acting in accordance with applicable State law, the railroad proceeds to retire or dismantle the warning system. However, pending repair, correction, or retirement of the warning system, the railroad shall comply with this subpart to ensure the safety of the travelling public and railroad employees.

This section makes clear that the regulations are not intended to force railroads to continually repair a warning system that, under State law, may be retired. Of course, a railroad must still comply with these regulations during the pendency of State retirement proceedings.

Section 234.105. Activation failure. This section requires that upon receipt of a credible report of an activation failure, a railroad having maintenance responsibility for the warning system shall immediately initiate efforts to protect motorists and railroad employees at the subject crossing by taking, at a minimum, the following actions: (a) Notify each train regarding the reported malfunction prior to the train's arrival at the crossing; (b) notify the appropriate highway traffic control authority regarding the reported malfunction; and (c) provide or arrange for alternative means of actively warning highway users of approaching trains.

Alternative means of actively warning highway users of approaching trains involves providing appropriately equipped personnel to warn of approaching trains. If there is at least one appropriately equipped person for each direction of highway traffic, trains are permitted to proceed through the crossing at their normal speed, since essentially the same level of protection is being provided as when the warning system is functioning properly.

If there is not one appropriately equipped person providing warning for each direction of highway traffic, a train may not enter the crossing until the train has stopped, and highway traffic is flagged by either a crewmember or an appropriately equipped person at the crossing. If highway traffic is being flagged by a crewmember, the locomotive shall stop before the crossing to permit the crewmember to dismount to flag highway traffic to a stop. The locomotive may then proceed through the crossing and then stop to permit the flagging crewmember to board the locomotive before the remainder of the train proceeds through the crossing.

This provision is meant to anticipate the situation in which only one person is available to flag highway traffic. If only one person is available to flag traffic on a two-way street, the train must stop before entering the crossing to permit the flagger to safely flag highway traffic to a stop. The same procedure is used if a train crewmember is used to flag highway traffic, with the exception that the crewmember can reboard the locomotive after the locomotive passes through the crossing. There is no requirement that the entire train pass through the crossing before the crewmember reboards.

This section also requires that a locomotive's audible warning device be activated in accordance with railroad rules regarding the approach to a grade crossing, regardless of any State or local laws or ordinances to the contrary.

Section 234.107. False activation. Subsection (a) requires that upon receipt of a credible report of a false activation, a railroad having maintenance responsibility for the warning system shall immediately initiate efforts to protect motorists and railroad employees at the subject crossing by taking, at a minimum, the following actions: (1) Notify each train regarding the reported malfunction prior to the train's arrival at the crossing; (2) notify the appropriate highway traffic control authority regarding the reported malfunction; and (3) within two hours of receipt of the credible report of malfunction, provide or arrange for alternative means of highway traffic control. During the period in which there are no alternative means of highway traffic control in place, trains may enter the crossing only after reducing speed to a "restricted" speed of not greater than 10 miles per hour. FRA recognizes that 10 miles per hour may not be the single, appropriate speed that is warranted in all cases and requests comment or this issue. Commenters are requested to note that traditional restricted speed rules may not be applicable here, since in the worst case a vehicle could appear on the crossing virtually without warning.

The two-hour period provided in subparagraph (3) is the maximum period during which trains may enter the crossing without flagging personnel stationed at the crossing. This provision reflects the time it may take to make arrangements for personnel to flag the crossing. However, we are specifically requesting comments on the proposed time period to find out any circumstances under which this requirement may be difficult to fulfill. Ideally, repair personnel would be the first to respond to reports of malfunction, but in some cases, for example, where the signal maintainer is at the other end of a 100-mile territory, it may be necessary to station flaggers at the crossing pending arrival of the maintainer. Similarly, if, after inspection and testing, repairs cannot be accomplished immediately, flaggers must be on station until the system is repaired. However, the railroad is given an option in subsection (c), discussed more fully below, of temporarily taking the warning system out of service in lieu of maintaining personnel at the crossing on a full-time basis.

Subsection (b) lists acceptable alternative means of highway traffic control in instances of false activations. Alternative means of highway traffic control involves providing appropriately equipped personnel capable of directing highway traffic through the crossing when trains are not approaching. Because false activations involve gates or lights that are continuously or intermittently active without an approaching train, flagging personnel must be stationed at the crossing on a full-time basis in order to ensure that highway traffic can safely cross the tracks until the system is repaired without compromising the long-term credibility of the warning system.

The proposed rules distinguish between single and multiple track crossings, and those with, and without, gates. At single track crossings equipped with only automatic flashing lights or bells, but without automatic gates, at least one appropriately equipped person shall be responsible for flagging traffic through the crossing.

At multiple track crossing, or any crossing equipped with automatic gates, at least one appropriately equipped person for each direction of highway traffic shall be responsible for flagging traffic through the crossing.

This section also requires that a locomotive's audible warning device be activated in accordance with railroad rules regarding the approach to a grade crossing, regardless of any laws or ordinances to the contrary.

Subsection (c) provides the railroad an option of temporarily taking the warning system out of service in lieu of maintaining personnel at the crossing on a full-time basis until repairs are completed. However, the warning system may only be taken out of service if the railroad complies with the protection requirements for activation failures (section 105). Thus, the railroad could have someone at the crossing on a full-time basis to assist highway traffic around downed gates, or, with gates locked in an up position, the railroad could flag highway traffic when a train

approaches. The latter option would be especially useful on light density rail lines.

Section 234.109. Recordkeeping

Section 109 requires that railroads keep records pertaining to compliance with this subpart. Each railroad must keep the following information for each report of activation failure and false activation: (1) Name and phone number of the individual reporting an activation failure or false activation; (2) location of crossing by highway name or the DOT/AAR Crossing Inventory Number; (3) time and date of receipt by railroad of report of malfunction; (4) actions taken by the railroad prior to repair and reactivation of the repaired system; and (5) time and date of repair.

This section also requires that each railroad shall retain for at least one year all records referred to above. Records required to be kept shall be made available to FRA as provided by section 208 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 437).

Regulatory Impact

E.O. 12291 and DOT Regulatory Policies and Procedures

This proposed rule has been evaluated in accordance with existing policies and procedures, and is considered to be nonmajor under Executive Order 12291 but significant under DOT policies and procedures (44 FR 11034, February 26, 1979) because they initiate a new regulatory program. FRA has prepared and placed in the rulemaking docket a regulatory evaluation addressing the economic impact of these rules. FRA's initial estimates, based on preliminary data, is that compliance with section 105, "Activation failure," will cost $2,375,316 and yield $12,692,613 in benefits, both discounted over 10 years. The benefit/cost ratio is 5.34. FRA further estimates that compliance with section 107, "False activation, will cost $56,383,850, discounted over ten years. We would only need a reduction of 0.49 percent in accidents at grade crossings with active warning devices in order to have a favorable benefit/cost ratio. These estimates are preliminary, and will be adjusted as FRA refines its data. A copy of the regulatory evaluation may be inspected and copied in Room 8201, 400 Seventh Street, SW., Washington, DC 20590.

Paperwork Reduction Act

The proposed rule contains information collection requirements. FRA is submitting these information collection requirements to the Office of Management and Budget for approval under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). The proposed section that contains information collection requirements is section 234.109. The estimated time to fulfill the requirement of that section is 15 minutes for each record. FRA solicits comments on the accuracy of the FRA estimate; the practical utility of the information; and the alternative methods that might be less burdensome to obtain this information. Persons desiring to comment on this topic should submit their views in writing to FRA (Ms. Gloria Swanson, RRS–21, Federal Railroad Administration, 400 Seventh Street, SW., Washington, DC 20590) and to the Office of Management and Budget, (Desk Officer, Regulatory Policy Branch (OMB No. 2130–AA45), Office and Management and Budget, New Executive Office Building, 726 Jackson Place, NW., Washington, DC 20530. Copies of any such comments should also be submitted to the docket clerk of this rulemaking at the address provided above.

Environmental Impact

FRA has evaluated these proposed regulations in accordance with its procedure for ensuring full consideration of the potential environmental impacts of FRA actions, as required by the National Environmental Policy Act and related directives. This notice meets the criteria that establish this as a non-major action for environmental purposes.

Federalism Implications

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the proposed rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

List of Subjects in 49 CFR Part 234

Railroad safety, Highway-rail grade crossings, Reporting and recordkeeping requirements.

The Proposed Rule

In consideration of the foregoing, FRA proposes to amend chapter II b of Title 49, Code of Federal Regulations as follows:

PART 234—[AMENDED]

1. The authority citation for part 234 continues to read as follows:

Authority: Secs. 202, 208, and 209 of the Federal Railroad Safety Act of 1970, as amended (45 U.S.C. 431, 437, and 438, as amended); Pub. L. 100–342; Accident Reports Act (45 U.S.C. 38 and 42); and CFR 1.49(f), (g), and (m).

2. Amend § 234.5 by adding paragraphs (e), (f), and (g) to read as follows:

§ 234.5 Definitions.

* * * * *

(e) *Credible report of system malfunction* means specific information regarding a malfunction at an identified highway-rail crossing, supplied by an identified railroad employee, police officer, highway traffic official, or an individual who has provided his or her name together with a telephone number or other means of contact, and who does not have a history of making false or misleading reports to the railroad pertaining to system malfunctions.

(f) *Appropriately equipped* means equipped with bright orange clothing such as a vest, shirt or jacket, together with an orange hat to improve visibility. For nighttime conditions, the orange clothing must be reflectorized with orange, white or yellow retroreflective material. Required traffic control tools include combination "STOP"/"SLOW" hand paddle or pole type paddle signs at least 18 inches in width with letters at least 6 inches high or a bright red flag at least 24 inches by 24 inches in size. Nighttime flagging requires proper illumination of flagger and equipment. A well-lighted flagging station or a reflectorized paddle sign plus a flashlight, lantern, or other lighted signal that will display a red warning light shall be used.

(g) *Warning system malfunction* means an activation failure or false activation of a highway-rail grade crossing warning system.

§ 234.6 [Redesignated from §§ 234.15 and 234.17]

3. Redesignate § 234.15, "Civil penalty" and § 234.17, "Criminal penalty" as new § 234.6(a) and (b) respectively, and add a new section heading for newly designated § 234.6 to read as follows:

§ 234.6 Penalties.

(a) *Civil penalty.* * * *

(b) *Criminal penalty.* * * *

4. Add a new Subpart C—Response to Reports of Warning System Malfunction to read as follows:

Subpart C—Response to Reports of Warning System Malfunction

Sec.

Sec.
234.109 Recordkeeping.

§ 234.101. Employee notification rules.

Railroads shall issue operating rules requiring their employees to notify, by the fastest means available, appropriate railroad officials of warning system malfunctions.

§ 234.103. Duty to inspect, test, and repair.

(a) Subject to paragraph (b) of this section, upon receiving a credible report of a warning system malfunction, a railroad has a duty to inspect, test, and repair the system within a reasonable period of time. Pending correction or repair of the warning system, the railroad shall provide alternative means of protecting the highway user and railroad passenger and employee in accordance with this subpart.

(b) A railroad is not required to respond to a credible report of malfunction if reliable information available to the railroad indicates that the warning system is, in fact, functioning properly and that the details contained in the credible report of the alleged malfunction are consistent with the facts known by the railroad that lead it to determine that no malfunction exists.

(c) Nothing in this subpart requires repair or correction of a warning system, if, acting in accordance with applicable State law, the railroad proceeds to retire or dismantle the warning system. However, pending repair, correction, or retirement of the warning system, the railroad shall comply with this subpart to ensure the safety of the travelling public and railroad employees.

§ 234.105. Activation failure.

Upon receipt of a credible report of an activation failure, a railroad having maintenance responsibility for the warning system shall immediately initiate efforts to protect motorists and railroad employees at the subject crossing by taking, at a minimum, the following actions:

(a) Prior to a train's arrival at the crossing, notify the train crew of the report of activation failure and order the crew to take action consistent with the requirements of this subpart;

(b) Notify the highway traffic control authority having jurisdiction over the crossing and request necessary assistance to protect the travelling public; and

(c) Provide or arrange for alternative means of actively warning highway users of approaching trains, consistent with the following requirements:

(1) If one appropriately equipped person provides warning for each direction of highway traffic, trains may proceed through the crossing at normal speed.

(2) If there is not at least one appropriately equipped person providing warning for each direction of highway traffic, a train may not enter the crossing until the train has stopped, and highway traffic is flagged by either a train crewmember or an appropriately equipped person at the crossing. If highway traffic is being flagged by a crewmember, the locomotive shall stop before the crossing to permit the crewmember to dismount to flag highway traffic to a stop. The locomotive may then proceed through the crossing and then stop to permit the flagging crewmember to board the locomotive before the remainder of the train proceeds through the crossing.

(3) A locomotive's audible warning device shall be activated in accordance with railroad rules regarding the approach to a grade crossing, regardless of any laws or ordinances to the contrary.

§ 234.107. False activation.

(a) Upon receipt of a credible report of a false activation, a railroad having maintenance responsibility for the warning system shall immediately initiate efforts to protect motorists and railroad employees at the subject crossing by taking, at a minimum, the following actions:

(1) Prior to a train's arrival at the crossing, notify the train crew of the report of false activation and order the train crew to take action consistent with the requirements of this subpart;

(2) Notify the highway traffic control authority having jurisdiction over the crossing and request necessary assistance to protect the travelling public; and

(3) Within two hours of receipt of the credible report of malfunction, provide or arrange for alternative means of highway traffic control in accordance with paragraph (b) of this section. During the period in which there are no alternative means of highway traffic control in place, trains may enter the crossing only after reducing speed to "restricted speed" (not to exceed 10 miles per hour).

(b) Acceptable minimum alternative means of highway traffic control include the following:

(1) At single track crossings equipped with only automatic flashing lights or bells, but without automatic gates, at least one appropriately equipped person shall be responsible for flagging traffic through the crossing;

(2) At multiple track crossings, or any crossing equipped with automatic gates, at least one appropriately equipped person for each direction of highway traffic shall be responsible for flagging traffic through the crossing; and

(3) A locomotive's audible warning device shall be activated in accordance with railroad rules regarding the approach to a grade crossing, regardless of any laws or ordinances to the contrary.

(c) In lieu of maintaining personnel at the crossing on a full-time basis ending repair of the crossing system as required by this section, a railroad may temporarily take the crossing warning system out of service, provided however, the railroad shall comply with all requirements of § 234.105, "Activation failure."

§ 234.109. Recordkeeping.

(a) Each railroad shall keep records pertaining to compliance with this subpart. Each railroad shall, at a minimum, keep the following information for each report of activation failure or false activation:

(1) Name and telephone number of the individual reporting an activation failure or false activation;

(2) Location of crossing (by highway name or DOT/AAR Crossing Inventory Number);

(3) Time and date of receipt by railroad of report of malfunction;

(4) Actions taken by railroad prior to repair and reactivation of repaired system; and

(5) Time and date of repair.

(b) Each railroad shall retain for at least one year all records referred to in paragraph (a) of this section. Records required to be kept shall be made available to FRA as provided by section 208 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 437).

5. Amend appendix A by inserting in numerical order new entries to read as follows:

APPENDIX A TO PART 234.—Schedule of Civil Penalties

Section	Violation	Willful Violation
* * * * *		
234.101 Employee notification rules	$5,000	$7,500
234.103 Duty to inspect, test and repair	5,000	7,500
234.105 Activation failure	5,000	7,500
234.107 False activation	5,000	7,500
234.109 Recordkeeping	2,500	5,000
* * * * *		

Issued in Washington, DC on June 16, 1992.

Gilbert E. Carmichael,

Administrator.

[FR Doc. 92-15237 filed 6-26-92; 8:45 am]

BILLING CODE 4910-06-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1004

[Ex Parte No. 55 (Sub-No. 87)]

Interpretations and Routing Regulations

AGENCY: Interstate Commerce Commission.

ACTION: Proposed rule; extension of comment due date.

SUMMARY: By notice of proposed rulemaking published June 1, 1992, 57 FR 23072, the Commission proposed to eliminate the requirement that a private carrier engaged in incidental for-hire transportation shall conduct such operations independently of its private operations and shall maintain separate records for each. The Commission prescribed a comment due date of July 1, 1992. On June 23, 1992, The American Trucking Associations (ATA) requested a 30-day extension to August 3, 1992, to file comments. ATA states that additional time is necessary so motor carrier members can consider the proposal at ATA Executive Committee meetings being held from June 23 through 26, 1992, discuss issues with the National Private Truck Council (NPTC), and prepare comments. ATA states that NPTC supports the extension request. The request will be granted.

DATES: Comments are due on August 3, 1992.

ADDRESSES: Send an original and 10 copies of comments referring to Ex Parte No. 55 (Sub-NO. 87) to: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Richard B. Felder, (202) 927-5610.

[TDD for hearing impaired: (202) 927-5721].

Decided: June 24, 1992.

By the Commission, Sidney L. Strickland, Jr., Secretary.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 92-15226 Filed 6-26-92; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AB23

Endangered and Threatened Wildlife and Plants; Withdrawal of the Proposed Rule To Revise the Grizzly Bear Special Rule To Allow Take Under a Special Hunt in Portions of Idaho, Montana, and Wyoming

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; withdrawal.

SUMMARY: The U.S. Fish and Wildlife Service (Service) withdraws the proposed rule published in the **Federal Register** (54 FR 42524) to revise the special rule for the grizzly bear allowing take of nuisance bears through a State-administered hunt in a specific area encompassing the Idaho, Montana, and Wyoming portions of the Yellowstone ecosystem outside Yellowstone and Grant Teton National Parks.

ADDRESSES: The complete file for this notice is available for public inspection, by appointment, during normal business hours at the Service's Fish and Wildlife Enhancement Office, NS 312, University of Montana, Missoula, Montana 59812.

FOR FURTHER INFORMATION CONTACT: Dr. Christopher Servheen at the above address, telephone (406) 329-3223 or FTS 585-3223.

SUPPLEMENTARY INFORMATION:

Background

Restoring an endangered or threatened animal or plant to the point where it is again a secure, self-sustaining member of its ecosystem is a primary goal of the U.S. Fish and Wildlife Service's (Service) Endangered Species Program. The Service may propose special rules providing for the conservation of threatened species including taking prohibitions. On October 17, 1989, the Service published a proposed rule in the **Federal Register** (54 FR 42524) to revise the special rule for the grizzly bear in 50 CFR part 17 to expand the types of persons permitted to take nuisance bears. The proposal would have allowed specially authorized persons to take nuisance bears through a State-administered hunt in a specific area encompassing the Idaho, Montana, and Wyoming portion of the Yellowstone ecosystem outside Yellowstone and Grant Teton National Parks. The proposal would have allowed greater flexibility in the management of grizzly bears without increasing the number of bears normally removed from this area.

Eighty-six comments were received during the public comment period for the proposed rule. A majority of the comments from private individuals (69 percent) were opposed to the proposed rule; 28 percent supported the proposed rule, and 3 percent indicated neither support nor opposition. Numerous other comments have been received at other times in opposition to the hunt covered in the proposed rule. No further coordination with private individuals has been undertaken regarding the withdrawal of the proposed rule.

The Service hereby withdraws the proposed rule published in 54 FR 42524 to allow take of nuisance bears through a special hunt in the Yellowstone area. The withdrawal of the proposed rule is being done partially because the Service did not address excessive grizzly bear population pressures in the proposed rule. A reanalysis of the biological information available on the grizzly bear population in this area resulted in the Service deciding that it would not be in the best interest of the grizzly bear recovery program to finalize this proposed rule.

Author

The primary author of this notice is Patricia Worthing, Region 6 Recovery Coordinator, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225, telephone (303) 236-7398 or FTS 776-7398.

Authority: The authority for this action is 16 U.S.C. 1531-1544.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Dated: May 29, 1992.

Richard N. Smith,

Acting Director.

[FR Doc. 92-15197 Filed 6-26-92; 8:45 am]

BILLING CODE 4310-55-M

50 CFR Parts 17 and 23

Policy on Giant Panda Import Permits; Request for Comments

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Request for comments and information.

SUMMARY: On March 14, 1991, the U.S. Fish and Wildlife Service (Service) published in the **Federal Register** a

policy statement on the issuance of permits for the importation of giant pandas. In light of recent communications with the Secretariat of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), the Service is opening a dialogue with the Secretariat to determine that office's particular concerns with the Service's panda policy. In conjunction with those discussions, the Service hereby opens a public comment period so that all interested persons may submit comments or other information relevant to the panda policy.

DATES: Comments and other relevant information must be received by July 29, 1992.

ADDRESSES: Comments and other information relevant to the Service's panda policy should be sent to the Chief, Office of Management Authority, 4401 Fairfax Drive, room 432, Arlington, VA 22203. Comments and information received will be available for public inspection, by appointment, during normal business hours, in room 430 of that address.

FOR FURTHER INFORMATION CONTACT: Mr. Marshall P. Jones, Chief, Office of Management Authority, U.S. Fish and Wildlife Service, Arlington, VA 22203, telephone (703) 358–2093; Dr. Charles W. Dane, Chief, Office of Scientific Authority, U.S. Fish and Wildlife Service, Arlington, VA 22203, telephone (703) 358–1708.

SUPPLEMENTARY INFORMATION: The giant panda (*Ailuropoda melanoleuca*) is listed as an endangered species under the U.S. Endangered Species Act (ESA), 16 U.S.C. 1531–44, and is included on appendix I of CITES. With certain exceptions, the import restrictions of these laws require the issuance of an import permit by the Service's Office of Management Authority before giant pandas may be lawfully shipped to the United States.

Before issuing import permits under the ESA and CITES, the Service's Office of Management Authority (OMA) and its Office of Scientific Authority (OSA) must make several required findings. For example, the OMA must determine whether the proposed importation would be for scientific purposes or for the enhancement of propagation or survival of the gaint panda in accordance with section 10(a) of the ESA, and whether the proposed importation would be consistent with the purposes and policies of the ESA, section 2(b), 2 (c), and 10(d). Under section 7 of the ESA, the OSA must issue its biological opinion on whether the proposed importation is likely to jeopardize the continued existence of the endangered giant panda. Under Article III of CITES, the OMA must determine that the pandas would not be used for primarily commercial purposes. Additionally, CITES requires the OSA to advise whether the proposed importation will be for purposes that are not detrimental to the survival of the giant panda and to determine whether to permit applicant is suitably equipped to house and care for the pandas. To assist the OSA and the OMA in making these required findings when reviewing applications for the importation of giant pandas, the Service adopted its "Policy on Giant Panda Import Permits," 56 FR 10809 (Mar. 14, 1991), after conducting an extensive public review and comment process.

After the Service's panda policy was adopted, the Columbus Zoo submitted, on November 27, 1991, an application for a permit to import two giant pandas for short-term exhibition purposes. The application, as supplemented, was evaluated carefully by the Service, taking into account the best available scientific information, public comments, the legal requirements of CITES and Endangered Species Act, and the Service's strict "Policy on Giant Panda Import Permits." On April 20, 1992, an import permit, issued under authority of CITES and the ESA, was issued by the Service to the Columbus Zoo.

Shortly after receiving notification that a permit had been issued to the Columbus Zoo, the CITES Secretariat in Lausanne, Switzerland, communicated its concern to the Service, and the Deputy Secretary General requested the Service to reconsider its permitting action. Although no information was presented to the Service that would require or justify a reconsideration of the Columbus Zoo permit, the expression of concern by the Secretariat has resulted in a decision by the Director to open a dialogue with the Secretariat. The purpose of this dialogue is to determine the Secretariat's particular concerns with the Service's panda policy and the issue of giant panda loans in general.

In conjunction with the Service's discussions with the CITES Secretariat, the Service is seeking comments and other relevant information from interested persons and organizations on the current panda policy. This public comment period is intended to provide a full opportunity for review and consideration of the concerns expressed by the Secretariat and others regarding the existing policy statement, which was published at FR 10809 on March 14, 1991.

Authority: The authority for this action is the Convention on International Trade in Endangered Species of Wild Fauna and Flora, TIAS 8249; and the Endangered Species Act of 1973, as amended (16 U.S.C. 1531–44).

Dated: May 28, 1992.

John F. Turner,

Director.

[FR Doc. 92–15169 Filed 6–26–92; 8:45 am]

BILLING CODE 4310–55–M

Notices

Federal Register
Vol. 57, No. 125
Monday, June 29, 1992

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Packers and Stockyards Administration

Deposting of Stockyards

Notice is hereby given, that the livestock markets named herein, originally posted on the dates specified below as being subject to the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 *et seq.*), no longer come within the definition of a stockyard under the Act and are therefore, no longer subject to the provisions of the Act.

Facility No., name, and location of stockyard	Date of posting
CA-120—Escalon Livestock Market, Escalon, CA.	Nov. 27, 1959.
TN-137—Gamaliel, KY L/S Auction, Inc., Gamaliel, TN.	Mar. 31, 1964.

This notice is in the nature of a change relieving a restriction and, thus, may be made effective in less than 30 days after publication in the **Federal Register** without prior notice or other public procedure. This notice is given pursuant to section 302 of the Packers and Stockyards Act (7 U.S.C. 202) and is effective upon publication in the **Federal Register.**

Done at Washington, DC this 22nd day of June, 1992.

Harold W. Davis,

Director, Livestock Marketing Division.

[FR Doc. 92-15147 Filed 6-26-92; 8:45 am]

BILLING CODE 3210-KD-M

Proposed Posting of Stockyards

The Packers and Stockyards Administration, United States Department of Agriculture, has information that the livestock markets named below are stockyards as defined in section 302 of the Packers and Stockyards Act (7 U.S.C. 202), and should be made subject to the provisions of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et *seq.*).

CA-183—Escalon Livestock Market, Escalon, CA

CA-184—Industry Hills Equestrian Center, Industry, CA

GA-212—Metter Pony and Goat Sale, Inc., Aline, GA

GA-213—Lanier Farmers Livestock Corporation, Gainesville, GA

Pursuant to the authority under section 302 of the Packers and Stockyards Act, notice is hereby given that it is proposed to designate the stockyards named above as posted stockyards subject to the provisions of said Act.

Any person who wishes to submit written data, views or arguments concerning the proposed designation may do so by filing them with the Director, Livestock Marketing Division, Packers and Stockyards Administration, room 3408-South Building, U.S. Department of Agriculture, Washington, DC 20250 by July 7, 1992.

All written submissions made pursuant to this notice will be made available for public inspection in the office of the Director of the Livestock Marketing Division during normal business hours.

Done at Washington, DC this 22nd day of June, 1992.

Harold W. Davis,

Director, Livestock Marketing Division.

[FR Doc. 92-15148 Filed 6-26-92; 8:45 am]

BILLING CODE 3410-KD-M

DEPARTMENT OF COMMERCE

Economic Development Administration

Petitions by Producing Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

AGENCY: Economic Development Administration (EDA).

ACTION: To give firms an opportunity to comment.

Petitions have been accepted for filing on the dates indicated from the firms listed below.

Firm name	Address	Date petition accepted	Product
Blackfeet Indian Writing Co., Inc	Blackfeet Industrial Park, Browning, MT 59417	05/18/92	Pencils, pens and markers.
Schneider Packaging Equipment Co., Inc	5370 Guy Young Rd., Box 890, Brewerton, NY 13029.	05/18/92	Packaging machines for filing, closing and sealing.
Natalie Fashions, Inc	238 Delaware Avenue, Palmerton, PA 18071	05/21/92	Apparel—women's blouses.
Pro-Mark Corp	10707 Craighead Drive, Houston, TX 77025-5899.	05/21/92	Wood products—hickory drum sticks.
Backwoods Design Furniture	Priest River Industrial Park, #5, Priest River, ID 83856.	05/21/92	Wood furniture.
Silica-Source Technology Corp	1155 West 23rd Street, #9, Tempe, AZ 85282	05/26/92	Miscellaneous—silicon wafers.
Ace Pattern & Foundry of Kansas, Inc	1001 Sunshine Road, Kansas City, KS 66115-1199.	05/26/92	Metal products—misc. cast aluminum products.
Southern Glove Manufacturing Co., Inc	P.O. Box 579, Conover, NC 28613	05/26/92	Apparel—cotton work gloves.
Badgley Manufacturing Co. Inc	1620 Northeast Argyle Drive, Portland, OR 97211.	05/27/92	Textiles—misc. textile bags, straps, coolers, pouches, etc.
Stylex, Inc	Box 38, Delanco, NJ 08075	05/27/92	Office furniture.
Cedarberg Industries, Inc	521 West 90th Street, Minneapolis, MN 55420	05/28/92	Industrial machine tool accessories, snap-loc products, tappers, circa torches & rotary converters.
Collectables, Inc (The)	Route 4, Box 503, Rolla, MO 65401	06/01/92	Ceramic dolls.
Hilton Clothes Inc	35 East Elizabeth Avenue, Linden, NJ 07036	06/08/92	Men's suits, sport jackets and trousers.

Firm name	Address	Date petition accepted	Product
PJ's of Newbern Ltd., Inc	Route 116, Newbern, VA 24126	06/08/92	Carousel horses—molded with gemwood, wood and polyester resin, hand painted, mounted.
Elec-Tec, Inc	707 Industrial Blvd., Box 5223, Valdosta, GA 31603.	06/08/92	Customized rheostat/photo cell/lamp socket assemblies and battery packs.
Ptesh Industries, Inc	1 River Rock Drive, Buffalo, NY 14207	06/10/92	Roller chain made in iron or steel.
Saint Laurie, Ltd	897 Broadway, New York, NY 10018	06/10/92	Suits, sportcoats, overcoats and tuxedos made principally of wool.
New Highwall Metal Spinning & Stamping Co., Inc.	871 Shepherd Avenue, Brooklyn, NY 11208	06/15/92	Brass and non-brass lamp parts.
Christianson Industries, Inc	27328 May Street, Edwardsburg, MI 49112	06/15/92	Aluminum automotive parts.
Koester Metals, Inc	1441 Quality Drive, P.O. Box 792, Defiance, OH 43512.	06/15/92	Metal cabinets for the distribution of electricity.

The petitions were submitted pursuant to section 251 of the Trade Act of 1974 (19 U.S.C. 2341). Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Trade Adjustment Assistance Division, room 4015A, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

The Catalog of Federal Domestic Assistance official program number and title of the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance.

Dated: June 19, 1992.

Steven R. Brennen,

Acting Deputy Assistant Secretary for Program Operations.

[FR Doc. 92-15190 Filed 6-26-92; 8:45 am]

BILLING CODE 3510-24-M

Foreign-Trade Zones Board

[Docket 10-92]

Foreign-Trade Zone 77, Memphis, TN; Proposed Expansion of Subzone 77A, Sharp Manufacturing Company of America, Television, Microwave Oven and Computer Plant, Memphis, TN; Amendment to Application

Notice is hereby given that the application submitted by the City of Memphis, Tennessee, grantee of FTZ Subzone 77A, requesting authority to expand the subzone and the scope of subzone manufacturing authority at the Sharp Manufacturing Company of America (Sharp) plant, located in Memphis, Tennessee, has been amended to include a request for authority to produce under zone procedures printed wiring boards for the computers made at the plant.

Foreign-sourced components for the printed wiring boards include electrical capacitors, resistors and metal screws (duty rates—0.7% to 10%.) The duty rate for personal computers is 3.9 percent.

The application was filed on April 15, 1992 (57 FR 18467, 4/30/92), and remains otherwise unchanged.

The comment period is reopened until August 13, 1992.

Dated: June 19, 1992.

John J. Da Ponte, Jr,

Executive Secretary.

[FR Doc. 92-15227 Filed 6-26-92; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

[A-461-601]

Solid Urea From the Union of Soviet Socialist Republics; Transfer of the Antidumping Duty Order on Solid Urea From the Union of Soviet Socialist Republics to the Commonwealth of Independent States and the Baltic States and Opportunity to Comment

AGENCY: International Trade Administration/Import Administration Department of Commerce.

ACTION: Notice of transfer of the antidumping duty order on solid urea from the Union of Soviet Socialist Republics to the Commonwealth of Independent States and the Baltic States and opportunity to comment.

SUMMARY: On July 14, 1987, the International Trade Administration (ITA) published an antidumping duty order on solid urea from the Union of Soviet Socialist Republics (USSR) (53 FR 2636). In December 1991 the USSR divided into fifteen independent states. The Department is changing the name and case number of the original antidumping order to conform to these changes by dividing the original order into fifteen (15) orders applicable to each independent state. Because of the novelty of this action, ITA is providing interested parties an opportunity to comment.

A uniform estimated cash deposit rate shall apply to all entries of the subject merchandise generated from producers located in what was known as the USSR. Since there have been no shipments of solid area from the USSR or the Commonwealth of Independent States and the Baltic States for over two years, the Department does not consider the above actions harmful to the status quo.

EFFECTIVE DATE: June 29, 1992.

FOR FURTHER INFORMATION CONTACT: Dennis U. Askey or Melissa G. Skinner, Office of Antidumping Compliance, International Trade Administration, U.S. 20230; telephone (202) 377 4851.

SUPPLEMENTARY INFORMATION:

Background

On July 14, 1987, the ITA published in the **Federal Register** the antidumping duty order on solid urea from the USSR (53 FR 2636). Further, On August 14, 1989, the ITA published in the **Federal Register** the final results of its second administrative review (54 FR 33262). Moreover, on September 25, 1989, the Department amended the final results and established an estimated cash deposit rate of 68.26 percent (54 FR 39219). By December 1991, the USSR was divided into fifteen independent states.

Each independent state has its own country case number for filing purposes. These case numbers are as follows:

Armenia (A-831-801)
Azerbaijan (A-832-801)
Belarus-Baltic (A-822-801)

Estonia-Baltic (A–447–801
Georgia (A–833–801)
Kazakhstan (A–834–801)
Kyrgyzstan (A–835–801)
Latvia-Baltic (A–449–801)
Lithuania (A–451–801)
Moldova (A–841–801)
Tajikistan (A–842–801)
Turkmenistan (A–843–801)
Ukraine (A–823–801)
Uzbekistan (A–844–801)
Russia (A–821–801)

The substance of each new order will not change from the original order, and the estimated cash deposit rate established in the most recent administrative review will remain in effect for each new independent state.

Any interested party may comment on the above and/or any other relevant issue(s) associated with the foregoing. Comments should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, room B 099, U.S. Department of Commerce, Washington, DC 20230. Further, any interested party that believes that the order should not apply, in whole or in part, to any of the new states, may request a changed circumstances antidumping duty order review under 19 CFR 353.22(f). The request must be supported by sufficient information justifying initiation of a changed circumstances review.

This notice is published in accordance with section 751(b) of the Tariff Act of 1930, 19 U.S.C. 1673(e) and 19 CFR 353.22(f).

Alan M Dunn,

Assistant Secretary for Import Administration.

[FR Doc. 92–15228 Filed 6–26–92; 8:45 am]

BILLING CODE 3510–DS–M

[A–351–606]

Tubeless Steel Disc Wheels From Brazil; Revocation of Antidumping Duty Order

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

ACTION: Notice of revocation of antidumping duty order .

SUMMARY: On March 3, 1992, the United States Court of International Trade ("CIT") affirmed the International Trade Commission's ("ITC") amended determination on remand that the ITC could no longer find that imports of tubeless steel disc wheels from Brazil threatened injury to the domestic industry producing tubeless steel disc wheels. The CIT's opinion in the case was not appealed, thus the antidumping duty order on tubeless steel disc wheels from Brazil must be revoked. The effective date of such revocation is March 13, 1992.

EFFECTIVE DATE: March 13, 1992.

FOR FURTHER INFORMATION CONTACT: Cameron Cardozo or Michael Rollin, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave., NW., Washington, DC 20230, telephone: (202) 377–2786.

SUPPLEMENTARY INFORMATION:

Background:

On May 8, 1987, the ITC published a final determination in Investigation No. 731–TA–335 (52 FR 17487) that an industry in the United States was threatened with material injury by reason of imports from Brazil of tubeless steel disc wheels, provided for in item 692.3230 of the former Tariff Schedules of the United States Annotated (TSUSA), that had been found by the Department of Commerce ("the Department") to be sold in the United States at less than fair value ("LTFV") (52 FR 8947, March 20, 1987). The Department published an antidumping duty order on tubeless steel disc wheels from Brazil on May 28, 1987 (52 FR 19903). Thereafter, on September 7, 1988, in response to the CIT's remand in *Borlem S.A. Empreedimentos Industriais* v. *United States*, 12 CIT 563, Slip Op. 88–77 (June 15, 1988), the Department of Commerce amended its original affirmative LTFV determination to recalculate the antidumping margins and to correct certain clerical, calculation, and transcription errors, and found that dumping by a significant Brazilian manufacturer/exporter was below *de minimis* (53 FR 34566).

On March 10, 1989, in a case challenging the ITC injury determination, the CIT remanded the case to the ITC to allow the ITC to make a finding as to whether it should reconsider its determination in view of the Department's amendment and, if it found reconsideration to be appropriate, to make a new determination. In April 1989, the ITC reported to the Court its determination that the ITC did not have the power to reconsider its final affirmative threat of material injury determination. *Tubeless Steel Disc Wheels From Brazil*, USITC Pub. No. 2179 (Views on Remand in Inv. No. 731–TA–355).

The CIT later held that the ITC did have the power to reconsider its injury determination. The CIT again remanded the case to the ITC for additional proceedings. *Borlem S.A.–Empreedimentos Industriais*, 718 F. Supp. 41, 49 (CIT 1989) [1]. On November 4, 1991, the ITC issued its second remand results in the case. *Tubeless Steel Disc Wheels from Brazil; Determination on Reconsideration of the Commission*, USITC Pub. No. 2448, Inv. No. 731–TA–335 (Final) (Nov. 1991). In those results, the ITC reversed its original affirmative threat of injury determination. This remand was affirmed by the CIT on March 3, 1992, *Borlem S.A.–Empreedimentos Industriais and FNV-Veiculos E Equipamentos S.A.* v. *United States et al.*, Court No. 87–06–00693, Slip Op. 92–22 (CIT March 3, 1992).

On April 20, 1992, the Department published a *Notice of Court of International Trade Decision*, which indicated the Department's intent to revoke the antidumping duty order on tubeless steel disc wheels from Brazil, based upon the ITC's finding of no threat of material injury (57 FR 14386.)

Since the CIT's opinion in this case was not appealed, the Department will revoke the antidumping duty order on tubeless steel disc wheels from Brazil, effective March 13, 1992.

Dated: June 22, 1992.

Alan M. Dunn,

Assistant Secretary for Import Administration.

[FR Doc. 92–15235 Filed 6–26–92; 8:45 am]

BILLING CODE 3510–DS–M

National Institute of Standards and Technology

[Docket No. 920491–2091]

RIN 0693–AB01

Proposed Revision of Federal Information Processing Standard (FIPS) 151–1, POSIX; Portable Operating System Interface for Computer Environments

AGENCY: National Institute of Standards and Technology (NIST), Commerce.

ACTION: Notice; request for comments.

SUMMARY: The purpose of this notice is to announce the proposed revision of Federal Information Processing Standard (FIPS) 151–1, POSIX: Portable Operating System Interface for Computer Environments. This proposed revision adopts International Standard ISO/IEC 9945–1, Information Technology—Portable Operating System

[1] The Court's remand order was affirmed by the Court of Appeals for the Federal Circuit. *Borlem S.A.-Empreedimentos Industriais* v. *United States*, 913 F.2d 933 (Fed. Cir. 1990).

Interface (POSIX)—Part 1: System Application Program Interface (API) [C Language], which defines a C programming language source interface to an operating system environment.

Prior to the submission of the proposed FIPS to the Secretary of Commerce for review and approval, it is essential to assure that consideration is given to the needs and views of manufacturers, the public, and State and local governments. The purpose of this notice is to solicit such views.

This proposed FIPS contains two sections: (1) An announcement section, which provides information concerning the applicability, implementation, and maintenance of the standard; and (2) a specifications section which deals with the technical requirements of the standard. Only the announcement section of the standard is provided in this notice. Interested parties may obtain copies of the specifications (ISO/IEC 9945-1) from the IEEE Service Center, 445 Hoes Lane, P.O. Box 1331, Piscataway, NJ 08855-1331, telephone 1-800-678-4333.

DATES: Comments on this proposed FIPS must be received on or before September 28, 1992.

ADDRESSES: Written comments concerning the proposed FIPS should be sent to: Director, Computer Systems Laboratory, Attn: Proposed Revision of FIPS 151-1, POSIX, Technology Building, room B154, National Institute of Standards and Technology, Gaithersburg, MD 20899.

Written comments received in response to this notice will be made part of the public record and will be made available for inspection and copying in the Central Reference and Records Inspection Facility, room 6020, Herbert C. Hoover Building, 14th Street between Pennsylvania and Constitution Avenues, NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Roger Martin, National Institute of Standards and Technology, Gaithersburg, MD 20899, telephone (301) 975-3295.

Dated: June 23, 1992.

John W. Lyons,

Director.

Proposed Federal Information Processing Standards Publication 151-2

(date)

Announcing the Standard for Portable Operating System Interface (POSIX)—System Application Program Interface [C Language]

Federal Information Processing Standards Publications (FIPS PUBS) are issued by the National Institute of Standards and Technology after approval by the Secretary of Commerce pursuant to the Section 111(d) of the Federal Property and Administrative Services Act of 1949 as amended by the Computer Security Act of 1987, Public Law 100-235.

1. Name of Standard. Portable Operating System Interface (POSIX)—System Application Program Interface [C Language] (FIPS PUB 151-2).

2. Category of Standard. Software Standard, Operating Systems.

3. Explanation. This publication announces the adoption of International Standard ISO/IEC 9945-1, Information Technology—Portable Operating System Interface (POSIX)—Part 1: System Application Program Interface (API) [C Language], as a Federal Information Processing Standard. This standard defines a C programming language source interface to an operating system environment. This standard is for use by computing professionals involved in system and application software development and implementation. This revision supersedes FIPS PUB 151-1 in its entirety.

4. Approving Authority. Secretary of Commerce.

5. Maintenance Agency. U.S. Department of Commerce, National Institute of Standards and Technology (Computer Systems Laboratory).

6. Cross Index. International Standard ISO/IEC 9945-1, Information Technology—Portable Operating System Interface (POSIX)—Part 1: System Application Program Interface (API) [C Language].

7. Related Documents.

a. Federal Information Resources Management Regulations subpart 201-20.303, Standards, and subpart 201-39.1002, Federal Standards.

b. Federal Information Processing Standards Publication 160, C.

c. ISO/IEC 9899: Information Technology-Programing Languages-C.

d. Test Methods for Measuring Conformance to POSIX, IEEE Std 1003.3-1991.

e. Test Methods for Measuring Conformance to POSIX.1, IEEE Std 1003.3.1-1992, (Expected date of completion).

f. Interpretation Procedures for Federal Information Processing Standards for Software, FIPS PUB 29-2, 1981 December 31.

g. NVLAP Program Handbook, Computer Applications Testing POSIX Conformance Testing, NISTIR 4522, March 1991 (latest revision).

h. NIST POSIX Testing Policy—General Information, January 22, 1992 (latest revision).

i. NIST POSIX Testing Policy, Certificate of Validation Requirements, FIPS 151-2, January 22, 1992 (latest revision).

8. Related On-Line Information. Information on the NIST POSIX Testing Program is available on an electronic mail (email) file server system. Documents available are:

Register—a register of accredited laboratories and tested implementations.

Policy—general information on NIST POSIX testing policy.

Required—information on requirements for certificates of validation under NIST POSIX testing policy for FIPS 151.

To access the system: You must be able to send and receive email via the Internet. For most email systems, send a message to posix@nist.gov. When the email systems responds with "Subject," you may type anything. The next line should be a basic command for the email server to send you one or more of the documents listed above. For example, to receive a copy of the register file, enter: send register.

After you issue your send command and a carriage return, the next line should signal the end of the email message as required by your email system.

Your email system may respond with EOT for the end of transmission.

The mail server program reads the message and sends the requested document to the requester's email address.

If you need help contact the Systems and Software Technology Division, B266 Technology Building, NIST, Gaithersburg, MD 20899, telephone: 301-975-3295.

9. Objectives. The primary objectives of this FIPS are:

a. To promote portability of useful computer application programs at the source code level.

b. To simplify computer program documentation by the use of a standard portable system interface design.

c. To reduce staff hours in porting computer programs to different vendor systems and architectures.

d. To increase portability of acquired skills, resulting in reduced personnel training costs.

e. To maximize the return on investment in generating or purchasing computer programs by insuring operating system compatibility.

10. Applicability. This FIPS shall be used for operating systems that are either developed or acquired for Government use where POSIX-like interfaces are required. This FIPS is

applicable to the entire range of computer hardware, including:

a. laptops,

b. micro-computer systems,

c. mini-computer systems,

d. engineering workstations, and

e. mainframes.

11. Conformance. Implementations claiming conformance to FIPS 151–2 must successfully comply with the current testing requirements as defined in the "NIST POSIX Testing Policy—Certificate of Validation Requirements—FIPS 151–2".

12. Specifications. The FIPS PUB 151–2 specifications are the specifications contained in the International Standard ISO/IEC 9945–1, Information Technology—Portable Operating System Interface (POSIX)—Part 1: System Application Program Interface (API) [C Language], with the modifications specified below. These modifications are required for implementations of POSIX.1 that are acquired by Federal agencies.

These modifications ensure that applications, which choose to use those optional features specified in POSIX.1 and mandated below, are strictly conforming FIPS 151–2 applications (portable to all conforming FIPS 151–2 implementations). For each modification a reference to the associated POSIX text is provided.

a. Implementations claiming conformance to FIPS 151–2 shall provide the functionality specified in FIPS 160 and provide C Standard Language-Dependent System Support. (The reference text for FIPS 160 is ISO/IEC 9899: Information technology-Programming languages-C) [See POSIX.1 Subclause 1.3.3–1.3.3.3 lines 143–188].

b. Implementations claiming conformance to FIPS 151–2 shall define the POSIX.1 environment variable, HOME, in the environment for the login shell. [See POSIX.1 Subclause 2.6 lines 698–699].

c. Implementations claiming conformance to FIPS 151–2 shall define the POSIX.1 environment variable, LOGNAME, in the environment for the login shell. [See POSIX.1 Subclause 2.6 lines 698–699].

d. Implementations claiming conformance to FIPS 151–2 shall support the POSIX.1 option {NGROUPS___MAX} such that the value of {NGROUPS___MAX} is greater than or equal to eight (8). [See POSIX.1 Subclause 2.8.3 lines 1013–1015].

e. Implementations claiming conformance to FIPS 151–2 shall support a minimum value of 25 for the POSIX.1 variable {CHILD___MAX}. [See POSIX.1 Subclause 2.8.4 lines 1029–1030].

f. Implementations claiming conformance to FIPS 151–2 shall support a minimum value of 20 for the POSIX.1 variable {OPEN___MAX}. [See POSIX.1 Subclause 2.8.4 lines 1031–1032].

g. Implementations claiming conformance to FIPS 151–2 shall support the functionality associated with {___POSIX___JOB___CONTROL} being defined in <unistd.h>. [See POSIX.1 Subclause 2.9.3 lines 117–118].

h. Implementations claiming conformance to FIPS 151–2 shall support the functionality associated with {___POSIX___SAVED___IDS} being defined in <unistd.h>. [See POSIX.1 Subclause 2.9.3 lines 1119–1120].

i. Implementations claiming conformance to FIPS 151–2 shall support the functionality associated with {___POSIX___CHOWN___RESTRICTED} being defined in <unistd.h>. with value other than −1. [See POSIX.1 Subclause 2.9.4 lines 1136–1139].

j. Implementations claiming conformance to FIPS 151–2 shall support the functionality associated with {___POSIX___NO___TRUNC} being defined in <unistd.h>. with value other than −1. [See POSIX.1 Subclause 2.9.4 lines 1140–1141].

k. Implementations claiming conformance to FIPS 151–2 shall support the functionality associated with {___POSIX___VDISABLE} being defined in <unistd.h>. with value other than −1. [See POSIX.1 Subclause 2.9.4 lines 1142–1144].

l. Implementations claiming conformance to FIPS 151–2 shall support the functionality associated with the setting of the group-ID of a file (when it is created) to that of its parent directory. [See POSIX.1 Subclause 5.3.1.2, 5.4.1.2, and 5.4.2.2 lines 188–192, 384–385, and 431–432].

m. Implementations claiming conformance to FIPS 151–2 shall support, for terminal devices, the functionality associated with an interrupted *read*() such that the return from *read*() when interrupted by a signal after successfully reading some data returns the number of bytes the system has read. [See POSIX.1 Subclause 6.4.1.2 lines 132–134].

n. Implementations claiming conformance to FIPS 151–2 shall support, for terminal devices, the functionality associated with an interrupted *write*() such that the return from *write*() when interrupted by a signal after successfully writing some data returns the number of bytes the system has written. [See POSIX.1 Subclause 6.4.2.2 lines 214–216].

o. Implementations claiming conformance to FIP 151–2 shall support the functionality associated with the symbols CS7, CS8, CSTOPB, PARODD, and PARENB defined in <termios.h> for asynchronous general terminal interface devices. [See POSIX.1 Subclause 7.1.2.4 lines 383–387].

p. Implementations claiming conformance to FIPS 151–2 shall document the FIPS 151–2 conditional features implemented. (The term conditional features are the features or behaviors referred to in FIPS 151–2 that need not be present on all conforming implementations. IEEE Std 1003.3.1–1992 lists the documentation assertions for POSIX.1)

13. Implementation. This standard becomes effective six (6) months after date of publication of the final document in the **Federal Register** announcing approval of the revised standard by the Secretary of Commerce. This standard is compulsory and binding for use in all solicitations and contracts for new operating systems where POSIX-like interfaces are required.

a. Acquisition of a Conforming Portable Operating System Environment. Operating system environments which are to be acquired for Federal use after the effective date of this standard and where POSIX-like interfaces are required shall use this FIPS. Conformance to this FIPS shall be considered whether the operating system environments are:

1. Developed internally,

2. Acquired as part on an ADP system procurement,

3. Acquired by separate procurement,

4. Used under an ADP leasing arrangement, or

5. Specified for use in contracts for programming services.

b. Interpretation of the FIPS for Portable Operating System Interface for Computer Environments. NIST provides for the resolution of questions regarding the FIPS specifications and requirements, and issues official interpretations as needed. All questions about the interpretation of this FIPS should be addressed to:

Director, Computer Systems Laboratory, Attn: POSIX FIPS Interpretation, National Institute of Standards and Technology, Gaithersburg, MD 20899.

c. Validation of Conforming Operating Systems Environments. NIST has developed cooperatively with industry a validation suite for measuring conformance to this standard. This suite is required for testing conformance of

POSIX.1 implementations to FIPS 151–2. The "NIST POSIX Testing Policy, General Information" and the "NIST POSIX Testing Policy, Certificate of Validation Requirements, FIPS 151–2" specify the validation requirements.

14. Waivers. Under certain exceptional circumstances, the heads of Federal departments and agencies may approve waivers to Federal Information Processing Standards (FIPS). The head of such agency may redelegate such authority only to a senior official designated pursuant to section 3506(b) of title 44, U.S. Code. Waivers shall be granted only when:

a. Compliance with a standard would adversely affect the accomplishment of the mission of an operator of a Federal computer system, or

b. Cause a major adverse financial impact on the operator which is not offset by Governmentwide savings. Agency heads may act upon a written waiver request containing the information detailed above. Agency heads may also act without a written waiver request when they determine that conditions for meeting the standard cannot be met. Agency heads may approve waivers only by a written decision which explains the basis on which the agency head made the required finding(s). A copy of each such decision, with procurement sensitive or classified portions clearly identified, shall be sent to: National Institute of Standards and Technology; Attn: FIPS Waiver Decisions, Technology Building, room B–154; Gaithersburg, MD 20899.

In addition, notice of each waiver granted and each delegation of authority to approve waiver shall be sent promptly to the Committee on Government Operations of the House of Representatives and the Committee on Governmental Affairs of the Senate and shall be published promptly in the **Federal Register**.

When the determination on a waiver applies to the procurement of equipment and/or services, a notice of the waiver determination must be published in the *Commerce Business Daily* as a part of the notice of solicitation for offers of an acquisition or, if the waiver determination is made after that notice is published, by amendment to such notices.

A copy of the waiver, any supporting documents, the document approving the waiver and any supporting and accompanying documents, with such deletions as the agency is authorized and decides to make under 5 U.S.C. 552(b), shall be part of the procurement documentation and retained by the agency.

Appendix A

Application Portability Profile

FIPS 151–2 is the first component of a series of specifications needed for an applications portability profile. POSIX.1 provided the crucial first step by providing a vendor independent interface specification between an application program and an operating system. When fully extended, POSIX, will provide the functionality required to support source code portability for a wide range of applications across many different machines and operating systems.

NIST has published Special Publication 500–187, Application Portability Profile (APP), The U.S. Government's Open System Environment Profile, OSE/1, Version 1.0. The APP has been developed to provide sufficient functionality to accommodate a broad range of application requirements. The functional components of the APP constitute a framework for organizing standard elements that can be used to develop and maintain portable applications. A key aspect of the APP is based on an open system environment defined by non-proprietary specifications. Components may be added or deleted as technology changes and as Federal government requirements change.

[FR Doc. 92–15233 Filed 6–26–92; 8:45 am]
BILLING CODE 3510–CN–M

[Docket No. 910936–2093]

RIN 0693–AA95

Approval of Federal Information Processing Standards Publication 172, VHSIC Hardware Description Language (VHDL)

AGENCY: National Institute of Standards and Technology (NIST), Commerce.

ACTION: The purpose of this notice is to announce that the Secretary of Commerce has approved a new standard, which will be published as FIPS Publication 172, VHSIC Hardware Description Language (VHDL).

SUMMARY: On November 25, 1991 (56 FR 59246), notice was published in the **Federal Register** that a Federal Information Processing Standard for VHSIC Hardware Description Language (VHDL) was being proposed for Federal use.

The written comments submitted by interested parties and other material available to the Department relevant to this standard was reviewed by NIST. On the basis of this review, NIST recommended that the Secretary approve the standard as a Federal Information Processing Standards Publication, and prepared a detailed justification document for the Secretary's review in support of that recommendation.

The detailed justification document which was presented to the Secretary is part of the public record and is available for inspection and copying in the Department's Central Reference and Records Inspection Facility, room 6020, Herbert C. Hoover Building, 14th Street between Pennsylvania and Constitution Avenues, NW., Washington, DC 20230.

This FIPS contains two sections: (1) An announcement section, which provides information concerning the applicability, implementation, and maintenance of the standard; and (2) a specifications section which deals with the technical requirements of the standard. Only the announcement section of the standard is provided in this notice.

EFFECTIVE DATE: This standard is effective December 31, 1992.

ADDRESSES: Interested parties may purchase copies of the standard, including the technical specifications section, from the National Technical Information Service (NTIS). Specific ordering information from NTIS for this standard is set out in the Where to Obtain Copies Section of the announcement section of the standard.

FOR FURTHER INFORMATION CONTACT: Dr. William H. Dashiell, telephone (301) 975–2490, National Institute of Standards and Technology, Gaithersburg, MD 20899.

Dated: June 23, 1992.

John W. Lyons,

Director.

Federal Information Processing Standards Publication 172

(Date)

Announcing the Standard for VHSIC Hardware Description Language (VHDL)

Federal Information Processing Standards Publications (FIPS PUBS) are issued by the National Institute of Standards and Technology after approval by the Secretary of Commerce pursuant to Section 111(d) of the Federal Property and Administrative Services Act of 1949 as amended by the Computer Security Act of 1987, Public Law 100–235.

1. Name of Standard. VHSIC Hardware Description Language (VHDL) (FIPS PUB 172).

2. Category of Standard. Software Standard, Hardware Description Language.

3. Explanation. This publication announces the adoption of the Federal Information Processing Standard (FIPS) for VHDL. This FIPS adopts American National Standard Hardware Description Language VHDL (ANSI/IEEE 1076–1987) as stipulated in the

Specifications Section. The American National Standard specifies the form and establishes the interpretation of programs expressed in VHDL. The purpose of the standard is to promote portability of VHDL programs for use on a variety of data processing systems. The standard is used by implementors as the reference authority in developing compilers, interpreters, analyzers, simulators or other forms of high level language processors, and is used by digital hardware designers, and by other computer professionals who need to know the precise syntactic and semantic rules of the standard and who need to provide specifications for digital hardware descriptions.

4. Approving Authority. Secretary of Commerce.

5. Maintenance Agency. U.S. Department of Commerce, National Institute of Standards and Technology (NIST).

6. Cross Index. ANSI/IEEE 1076–1987, IEEE Standard VHDL Language Reference Manual.

7. Related Documents. a. Federal Information Resources Management Regulations subpart 201–20.303, Standards, and subpart 201–39.1002, Federal Standards.

b. Federal Information Processing Standards Publication 29–2, Interpretation Procedures for Federal Information Processing Standards for Software.

8. Objectives. Federal standards for high level digital design information and documentation languages permit Federal departments and agencies to exercise more effective control over the design, production, management, and maintenance of digital electronic systems. The primary objectives of this Federal hardware description language standard are:

—To encourage more effective utilization of design personnel by ensuring that design skills acquired under one job are transportable to other jobs, thereby reducing the cost of programmer retraining;
—To reduce the cost of design by achieving increased designer productivity and design accuracy through the use of formal languages;
—To reduce the overall life cycle cost for digital systems by establishing a common documentation language for the transfer of digital design information across organizational boundaries;
—To protect the immense investment of digital hardware from obsolescence by insuring to the maximal feasible extent that Federal hardware description language standards are technically sound and the subsequent revisions are compatible with the installed base.
—To reduce Federal inventory of electronic digital replacement parts.
—To increase the sources of supplies which can satisfy government requirements for mission specific electronic digital components.

Government-wide attainment of the above objectives depends upon the widespread availability and use of comprehensive and precise standard language specifications.

9. Applicability. a. Federal standards for hardware description languages are applicable for the design and documentation of digital systems developed for government use. This standard is suitable for use in the following digital system applications:

—Primary design and documentation of digital systems, subsystems, assemblies, hybrid components, and components;
—Formal specifications of digital systems throughout the procurement, contracting and development process;
—Test generation for digital system, subsystems, assemblies, hybrid components, and components;
—Re-procurement and redesign of digital systems, subsystems, assemblies, hybrid components, and components.

b. The use of FIPS hardware description languages applies when one or more of the following situations exist:

—The digital system will need to be maintained and upgraded.
—The digital system is under constant revisions during the development process.
—It is desired to have the design understood by multiple people, groups, or organizations.
—The system under development is to be designed by multiple people, groups, or organizations.
—Accurate unambiguous specifications are required in the bid and contracting process.

10. Specifications. The specifications for this standard are the language specifications contained in ANSI/IEEE 1076–1987, IEEE Standard VHDL Language Reference Manual.

This FIPS does not allow conforming implementations to extend the language. A conforming implementation is one that does not allow inclusion of substitute or additional language elements in order to accomplish a feature of the language as specified in the language standard. A conforming implementation in one which adheres to and implements all of the language specifications contained in ANSI/IEEE 1076–1987 except where the language standard permits deviations and which specifies conspicuously in a separate section in the conforming implementation documentation all such permitted variations. Also, such conformance shall be with default language processor system option settings.

The ANSI/IEEE 1076–1987 document does not specify limits on the size or complexity of programs, the results when the rules of the standard fail to establish an interpretation, the means of supervisory control programs, or the means of transforming programs for processing.

11. Implementation. The Implementation of this standard involves three areas of consideration: acquisition of VHDL processors, interpretation of FIPS VHDL, and validation of VHDL processors.

11.1 Acquisition of VHDL Processors. This publication is effective December 31, 1992. VHDL processors acquired for Federal use after this date should implement FIPS VHDL. Conformance to this standard is applicable whether VHDL processors are developed internally, acquired as part of an ADP system procurement, acquired by separate procurement, used under an ADP leasing management, or specified for use in contracts for hardware description services.

A transition period provides time for industry to produce VHDL processors conforming to the standard. The transition period begins on the effective date and continues for twelve (12) months thereafter. The provisions of this publication apply to orders placed after the effective date of this publication; however, a VHDL processor conforming to FIPS VHDL, if a available, may be acquired for use prior to the effective date. If a conforming VHDL processor is not available, a VHDL processor not conforming to this standard may be acquired for interim use during the transition period.

11.2 Interpretation of FIPS VHDL. The National Institute of Standards and Technology provides for the resolution of questions regarding the specifications and requirements, and issues official interpretations as needed. All questions about the interpretation of this standard should be addressed to: Director, Computer Systems Laboratory, Attn: FIPS VHDL Interpretation, National Institute of Standards and Technology, Gaithersburg, MD 20899, telephone: (301) 975–2490.

11.3 Validation of VHDL Processors: The validation of VHDL processors for conformance to this standard applies

when NIST VHDL validation procedures are available. At the present time NIST does not have procedures for validating VHDL processors. NIST is currently investigating methods which may be considered for validating processors for conformance to this standard.

For further information contact: Director, Computer Systems Laboratory, Attn: FIPS VHDL Validation, National Institute of Standards and Technology, Gaithersburg, MD 20899, (301) 975–2490.

12. Waivers. Under certain exceptional circumstances, the heads of Federal departments and agencies may approve waivers to Federal Information processing Standards (FIPS). The head of such agency may redelegate such authority only to a senior official designated pursuant to section 3506(b) of title 44, U.S. Code. Waivers shall be granted only when:

a. Compliance with a standard would adversely affect the accomplishment of the mission of an operator of a Federal computer system, or

b. Cause a major adverse financial impact on the operator which is not offset by Government wide savings.

Agency heads may act upon a written waiver request containing the information detailed above. Agency heads may also act without a written waiver request when they determine that conditions for meeting the standard cannot be met. Agency heads may approve waivers only by a written decision which explains the basis on which the agency head made the required finding(s). A copy of each such decision, with procurement sensitive classified portions clearly identified, shall be sent to: National Institute of Standards and Technology, Attn: FIPS Waiver Decisions, Technology Building, room B–154, Gaithersburg, MD. 20899.

In addition, notice of each waiver granted and each delegation of authority to approve waivers shall be sent promptly to the Committee on Government Operations of the House of Representatives and the Committee on Governmental Affairs of the Senate and shall be published promptly in the Federal Register.

When the determination on a waiver applies to the procurement of equipment and/or services, a notice of the waiver determination must be published in the Commerce Business Daily as a part of the notice of solicitation for offers of an acquisition or, if the waiver determination is made after that notice is published, by amendment to such notice.

A copy of the waiver, any supporting documents, the document approving the waiver and any supporting and accompanying documents, with such deletions as the agency is authorized and decides to make under 5 U.S.C. 552(b), shall be part of the procurement documentation and retained by the agency.

13. Where to Obtain Copies. Copies of this publication are for sale by the National Technical Information Service, U.S. Department of Commerce, Springfield, VA 22161. (Sale off the included specifications document is by arrangement with The Institute of Electric and Electronics Engineers, Inc..) When ordering, refer to Federal Information Processing Standards Publication 172 (FIPSPUB172), and title. Payment may be made by check, money order, or deposit account.

[FR Doc. 92–15234 Filed 6–26–92; 8:45 am]

BILLING CODE 3510-CN-M

COMMISSION OF FINE ARTS

Meeting

The Commission of Fine Arts' next meeting is scheduled for July 23, 1992 at 10 a.m. in the Commission's offices in the Pension building, suite 312, Judiciary Square, 441 F Street NW., Washington, DC 20001 to discuss various projects affecting the appearance of Washington, DC, including buildings, memorials, parks, etc.; also matters of design referred by other agencies of the government.

Inquiries regarding the agenda and requests to submit written or oral statements should be addressed to Charles H. Atherton, Secretary, Commission of Fine Arts, at the above address or call the above number.

Dated in Washington, DC, June 18, 1992.

Charles H. Atherton,

Secretary.

[FR Doc. 92–15119 Filed 6–26–92; 8:45 am]

BILLING CODE 6330-01-M

COMMODITY FUTURES TRADING COMMISSION

Chicago Board of Trade Proposed Contract

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of availability of the terms and conditions of proposed commodity futures contract.

SUMMARY: The Chicago Board of Trade (CBOT or Exchange) has applied for designation as a contract market in Barge Freight Rate Index Futures. The Director of the Division of Economic Analysis (Division) of the Commission, acting pursuant to the authority delegated by Commission Regulation § 140.96, has determined that publication of the proposal for comment is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATES: Comments must be received on or before July 29, 1992.

ADDRESSES: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581. Reference should be made to the Barge Freight Rate Index Futures contract.

FOR FURTHER INFORMATION CONTACT: Please contact Frederick Linse of the Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581, telephone 202–254–7303.

SUPPLEMENTARY INFORMATION: Copies of the terms and conditions will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Copies of the terms and conditions can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 254–6314.

Other materials submitted by the Exchange in support of the application for contract market designation may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR part 145 (1987)), except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Act Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8

Any person interested in submitting written data, views, or arguments on the terms and conditions, or with respect to other materials submitted by the exchange in support of the application, should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581 by the specified date.

Issued in Washington, DC, on June 23, 1992.

Gerald D. Gay,

Director.

[FR Doc. 92–15115 Filed 6–26–92; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Environmental Restoration Program

ACTION: Notice of fund availability and application instructions.

SUMMARY: The Department of Defense (DoD), through the Defense Environmental Restoration Program (DERP), involves State/Territorial governments in the environmental restoration of DoD installations including Base Closure and Realignment installations, and Formerly Used Defense Sites meeting the criteria set forth in paragraph V (hereinafter referred to as "cleanups"). DoD will make funds available to State/Territorial governments for their support services associated with cleanups. DoD cleanups and State/territorial support services shall be consistent with the applicable provisions of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), the Superfund Amendments and Reauthorization Act of 1986 (SARA), State/Territorial laws, and the National Contingency Plan (NCP). DoD is soliciting applications for funding for State/Territorial services supporting DERP.

DATES: Applications are now being accepted and have been accepted since July 29, 1989.

FOR FURTHER INFORMATION CONTACT: To obtain information regarding this program please contact: U.S. Department of Defense, Office of the Deputy Assistant Secretary of Defense (Environment) (DASD(E)), Attn: Kevin A. Doxey, 400 Army Navy Drive, Arlington, Virginia 22202–2884, telephone (703) 695–7007.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Superfund Amendments and Reauthorization Act of 1986 (SARA), section 211 (title 10 U.S.C. section 2701–2707, and 2810) requires the Secretary of Defense to carry out a program of environmental restoration at facilities under his jurisdiction. The program is known as the Defense Environmental Restoration Program (DERP). Activities of the program described as "the identification, investigation, research and development, and cleanup of contamination from hazardous substances, pollutants, and contamination" must be carried out subject to, and in a manner consistent with, section 120 of CERCLA (relating to Federal facilities). Facilities or sites covered by the program include 1. Installations—Facilities or sites currently owned by, leased to, or otherwise possessed by the United States and under the jurisdiction of the Secretary of Defense, 2. Formerly Used Defense Sites—Facilities or sites which were under the jurisdiction of the Secretary of Defense and owned by, leased to, or otherwise possessed by the United States at the time of actions leading to contamination by hazardous substances. SARA section 211 and CERCLA section 120 and 121 provide the opportunity for appropriate State/Territorial authorities to be involved in several specified aspects of the program. Program activities are funded through the annual Environmental Restoration, Defense (ER,D) appropriations to the Defense Environmental Restoration Account (DERA), and Base Closure Account (BCA).

To resolve several issues regarding State/Territorial involvement in the program, DoD and representatives from State and State Associations developed model language for a Department of Defense and State Memorandum of Agreement (DSMOA) regarding State/Territorial support services to DoD for activities funded under the ER,D appropriation. The purpose of a DSMOA is to expedite the cleanup of Defense active installations and Formerly Used Defense Sites (meeting the criteria set forth in paragraph V) within a State/Territory and to ensure compliance with applicable State/Territorial laws and regulations. An executed DSMOA is an overreaching agreement of commitment between DoD and a State/Territory, but it does not obligate nor commit funds. The model DSMOA language is provided at the end of this notice.

An executed DSMOA is mandatory for funding consideration. Funds from DERA and BCA will be made available through a cooperative agreement with each State/Territory that provides support services to DoD in carrying out the provisions of DERP under a DSMOA in accordance with applicable provisions of CERCLA/SARA, State/Territorial laws, and the NCP.

II. Cooperative Agreements

It is the intention of DoD to sign one cooperative agreement with each State/Territory to cover State/Territorial support services for cleanup activities at all installations and Formerly Used Defense Sites meeting the criteria set forth in paragraph V in the State/Territory as they are listed in appendix A of a DSMOA. DoD expects that pursuant to a DSMOA, reimbursements for State/Territorial services shall not exceed one (1) percent of the estimated total costs for all work funded under DERP, since October 17, 1986, and may be funded in the future, or a minimum of $50,000/year over the two-year term of the Cooperative Agreement, whichever is greater. The State/Territory may ordinarily request that up to a maximum of twenty-five (25) percent of the total State/Territorial services' funds (one (1) percent of the estimated total costs for all work funded under DERP) may be provided in accordance with section II of a DSMOA during any fiscal year. At least ten (10) percent of a State/Territorial services funding request will be provided in accordance with section II of a DSMOA during a fiscal year if the State/Territory requests an allocation of ten (10) percent or more.

III. Who May Apply

DoD will accept applications only from the State/Territorial Agency authorized by the State/Territory to enter into a DSMOA and a Cooperative Agreement on behalf of the State/Territory.

IV. What Can Be Funded

State/Territorial services qualifying for reimbursement include:

(1) Technical review, comments and recommendations on all documents or data required to be submitted to the State/Territory under an agreement between the State/Territory and a DoD component, all documents or data that a DoD Component requests the State/Territory to review, and all documents or data that are provided by a DoD Component to the State/Territory for review as a result of a request from the State/Territory made under applicable State/Territorial law.

(2) Identification and explanation of State/Territorial applicable or relevant and appropriate requirements related to response actions at DoD installations and Formerly Used Defense Sites meeting the criteria set forth in paragraph V.

(3) Site visits to review DoD response actions and ensure their consistency with appropriate State/Territorial requirements, or in accordance with site-specific requirements established in other agreements between the State/Territory and DoD Component.

(4) Participation in cooperation with DoD in the conduct of public education and public participation activities in accordance with Federal and State/Territorial requirements for public involvement.

(5) Services provided at the request of DoD in connection with participation in Technical Review Committees.

(6) Preparation and administration of a cooperative agreement (CA) to implement the DSMOA, including the estimate of State/Territorial costs.

(7) Preparation and administration of the DSMOA and amendments, including estimates of State/Territory Costs.

(8) Technical review, comments and recommendations on all documents and data regarding prioritization of sites pursuant to section II.B of the DSMOA.

(9) Determination of scope of agreements, determination of legal and technical applicability of agreements, and assurance of satisfactory performance of interagency agreements, but excluding any costs which may be incurred in anticipation of litigation against the U.S.

(10) Costs associated with independent quality assurance/quality control (QA/QC) efforts by the State/Territory in coordination with DoD.

(11) Other services that the State/Territory will provide that are set out in this agreement or are included in installation-specific agreements.

V. Evaluation Criteria for Awards

DoD will evaluate only those applications with an accompanying executed DSMOA. DoD shall use the following criteria for evaluating applications and making awards:

Installation: (1) The feasibility and responsiveness of the project's management plan;

(2) Assurance that there will be a timely provision of services;

(3) Reasonableness of cost estimates; and

(4) The capacity of the Applicant to carry out the proposed activity.

Formerly Used Defense Sites: (1) The completed Inventory Project Report has determined the site to be a FUDS eligible for funding under the DERP. DoD will reimburse the state only in direct support of DoD's executed portion of the action.

(2) No litigation brought by the state is in process against DoD at the FUDS being considered for reimbursement in the state.

(3) State certification that no supplemental funds from other Federal sources or DoD funding has been provided for costs incurred or previously paid to the state by any Federal agency for reimbursement of State expenses related to technical assistance support of DoD's remedial action at the site.

FUDS fulfilling the criteria will be managed in the same way as active and BRAC installations and will be included in Attachment A to the DSMOA.

VI. Submission Procedures

The Cooperative Agreement application will be submitted to: U.S. Army Corps of Engineers, Attn: CEMP–RI, 20 Massachusetts Avenue, NW., Washington, DC 20314. Telephone: (202) 272–1176.

A complete application package consists of:

(1) Standard Form 424 (SF 424, Application for Federal Assistance),

(2) SF 424A (Budget Information—Non-Construction Programs),

(3) SF 424B (Assurances—Non-Construction Programs),

(4) Cost Basis By Installation or Formerly Used Defense Site,

(5) Distribution Of Projected Total Costs By Category,

(6) Installation of Formerly Used Defense Site Background And Status,

(7) Implementation Plan,

(8) Expense Summary,

(9) Certification Regarding Lobbying Form,

(10) Drug Free Form (Drug-Free Workplace Act of 1988),

(11) State Signature Authority Form,

(12) Debarment and Suspension Form, and

(13) Copy of the signed DSMOA.

The Installation or (FUDS) Background and Status is a critical element in each application and should describe the installation or (FUDS) history and status, to include location, size, population (military and civilian), and mission of the installation or (FUDS); environmental problems to include type and method of contamination, past and present disposal/storage procedures, and current situation and potential impacts. It should also provide a list of sites and/or operable units per installation or (FUDS) including the status of each site.

To assist in the preparation of the Cooperative Agreement a booklet titled "Application Instructions for Cooperative Agreements" is available from the U.S. Army Corps of Engineers.

Number of Copies of Final Proposal

All applicants must submit one (1) signed original application and two (2) copies of the complete application described above to the U.S. Army Corps of Engineers mailing address. Each copy must be covered with executed SF 424.

VII. Compliance

The following laws, regulations, and procedures apply to applicants for and recipients of funding:

(1) The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), Public Law 96–510.

(2) The Superfund Amendments and Reauthorization Act of 1986 (SARA), Public Law 99–499.

(3) The National Contingency Plan (NCP). 40 CFR part 300.

(4) Base Closure and Realignment Act of 1988, Public Law 100–526.

(5) Defense Base Closure and Realignment Act of 1990, Public Law 101–510.

(6) The applicable Office of Management and Budget Circulars (A–87, A–102, and A–128).

(7) Drug-Free Workplace Requirements, as embodied in the Notice of Interim Final Rules as published in the January 31, 1989 **Federal Register**, part II, pp. 4946–4960 as applicable.

(8) Department of Defense Uniform Requirements for Grants and Cooperative Agreements to State and Local Governments, 32 CFR part 278.

(9) The Department of Defense State Memorandum of Agreement (DSMOA).

(10) The cooperative agreement.

(11) Reimbursement of State Costs for BRAC Installations, DASD(E) Memorandum dated January 14, 1991.

(12) Inclusion of DLA Stock Fund Sites in the DSMOA Program, DASD(E) Memorandum dated January 28, 1991.

(13) Inclusion of Criteria for FUDS in the DSMOA Program, March 12, 1992.

The recipient must carry out this program in compliance with public laws prohibiting discrimination because of race, color, national origin, sex, handicap, and age in programs and activities receiving Federal assistance.

Department of Defense and State/Territory Memorandum of Agreement (DSMOA)

In order to expedite the cleanup of hazardous waste sites on Department of Defense (DoD) installations and Formerly Used Defense Sites meeting certain criteria within the State/Territory of _____ and ensure compliance with the applicable [State/Territorial] laws and regulations, DoD and the [State/Territory Agency name] on behalf of the [State/Territory] of [State/Territory name] enter into this Agreement.

Except as otherwise specified, terms in this document are unique to this document only.

Section I—Reimbursement of State Costs

A. Coverage

1. This Agreement covers reimbursement of the costs associated with providing State/Territorial services to Department of Defense installations

for activities funded under the Environmental Restoration, Defense (ER,D) appropriation. Installations covered by this Agreement are those owned by the Federal government on the effective date of the Agreement including installations with sites on the National Priorities List (NPL) and installations with sites not on the NPL. This Agreement also includes those installations identified on the Base Realignment and Closure (BRAC) I list Pub. L. 100–526, dated October 24, 1988) and Base Realignment and Closure (BRAC) II list (Pub. L. 101–510, dated November 5, 1990), as well as Defense Logistics Agency's stock funded installations (DLASF). Coverage under this agreement for BRAC I and BRAC II installations extends to only Defense Environmental Restoration Program (DERP) remedial actions. These installations will be included in attachment A but,will not be subject to the provisions in section II (A and B). This Agreement also covers Formerly Used Defense Sites (FUDS) defined in section 211 of the Superfund Amendments and Reauthorization Act of 1986 (SARA), title 10 U.S. C., chapter 160, section 2701(c)(1)(B) as facilities or sites which were "under the jurisdiction of the Secretary of Defense and owned by, leased to, or otherwise possessed by the United States at the time of actions leading to contamination by hazardous substances." DoD agrees to include FUDS for reimbursement if the following criteria are fulfilled: a. The Inventory Project Review (IPR) has determined the site to be FUDS eligible for funding under DERP; b. no litigation brought by the state is in process against DoD at the FUDS considered for reimbursement; and, c. state certifies that no supplemental funds from other federal sources of DoD funding has been provided for costs incurred or previously paid to the State by any Federal agency for reimbursement of state expenses related to technical assistance support of DoD's remedial action at the site. These installations will be included in attachment A and are subject to the provisions in section II (A and B). This Agreement does not cover the costs of services rendered prior to October 17, 1986; services at properties not owned by the Federal government; and activities funded from sources other than ER,D appropriation except as specified above.

2. Unless a site-specific agreement provides otherwise, this Agreement is the mechanism for payment of the costs incurred by the State/Territory in providing the services listed in paragraph B of this section in relation to ER,D and BRAC funded activities at the installation covered by this Agreement. Full payment of State/Territory costs pursuant to this Agreement constitutes final settlement of any claims the State/Territory of _____ may have for performance of services outlined in section I(B) with respect to ER,D funded work carried out after October 17, 1986, at all of the installations covered by this Agreement, except for those State/Territory costs covered by a site-specific agreement.

3. DoD agrees to seek sufficient funding through the DoD budgetary process in accordance with section II and to pay the State/Territory of _____ for the services specified in paragraph B for all ER,D and BRAC funded activities at installations covered by this Agreement, subject to the conditions and limitations set forth in this section.

B. Services

State/Territorial services that qualify for payment under this Agreement include the following types of assistance provided by the State/Territory commencing at site identification and continuing through construction, as well as any other activities that are funded by ER,D or BRAC:

(1) Technical review, comments and recommendations on all documents or data required to be submitted to the State/Territory under an agreement between the State/Territory and a DoD component, all documents or data that a DoD Component requests the State/Territory to review, and all documents or data that are provided by a DoD Component to the State/Territory for review as a result of a request from the State/Territory made under applicable State/Territorial law.

(2) Identification and explanation of State/Territorial applicable or relevant and appropriate requirements related to response actions at DoD installations.

(3) Site visits to review DoD response actions and ensure their consistency with appropriate State/Territorial requirements, or in accordance with site-specific requirements established in other agreements between the State/Territory and DoD Component.

(4) Participation in cooperation with DoD in the conduct of public education and public participation activities in accordance with Federal and State/Territorial requirements for public involvement.

(5) Services provided at the request of DoD in connection with participation in Technical Review Committees.

(6) Preparation and administration of a cooperative agreement (CA) to implement this Agreement, including the estimate of State/Territory costs.

(7) Preparation and administration of the DSMOA and amendments.

(8) Technical review, comments and recommendations on all documents and data pursuant to section II.B. of the DSMOA and CA application.

(9) Determination of scope of agreements, determination of legal and technical applicability of agreements, and assurance of satisfactory performance of interagency agreements, but excluding any costs which may be incurred preparing for litigation against the U.S. Government.

(10) Costs associated with independent quality assurance/quality control (QA/QC) efforts by the State/Territory of up to ten (10) percent of samples collected by either the State/Territory, the installation, or both at each DoD installation and FUDS covered by this Agreement.

(11) Other services that the State/Territory will provide that are set out in this agreement or are included in installation-specific agreements.

C. Accounting Procedures

1. Subject to the provisions of paragraph D and E, reimbursement of eligible State/Territory costs incurred between October 17, 1986, and the date of this Agreement shall be paid if the costs have been documented using accounting procedures and practices that reasonably identify the nature of the costs involved, the date the costs were incurred, and show that the costs were entirely attributable to activities at an installation covered by this Agreement.

2. Payment of eligible State/Territory costs for services provided after the effective date of this Agreement must comply with all applicable Federal procurement and auditing requirements.

D. Maximum Reimbursement

Reimbursement for services provided under paragraph B for all installations included in Attachment A shall not exceed one (1) percent of the estimated total costs for all of the work that has been funded by ER,D or BRAC since October 17, 1986, and will in the future be funded by ER,D or BRAC or a minimum of $50,000/year over the term of the CA, whichever is greater. Estimates of cleanup costs developed under this Agreement are provided solely for the purpose of calculating the amount of funding the State/Territory is eligible to receive.

E. Annual Budget Limits

The State/Territory may ordinarily request that up to a maximum of twenty-five (25) percent of the total State/Territory services funds for all installations and FUDS listed in Attachment A be provided in accordance with section II during any fiscal year. DoD may approve an annual budget limit that exceeds twenty-five (25) percent of the total State/Territorial services funds if the State/Territory demonstrates the need for a higher percentage based on the scope of the work projected during the fiscal year. At least ten (10) percent of a State's/Territory's services funding request will be provided in accordance with section II of this Agreement during a fiscal year if the State/Territory requests an allocation of ten (10) percent or more for services under this Agreement. The State/Territory may carry over unused funds into subsequent years. If the cost of State/Territorial services during a fiscal year exceeds the annual budget, the State/Territory may expend its own funds to pay the costs of those services. To the extent allowable under Federal procedures for CAs, the State/Territory may then seek reimbursement of these costs in a subsequent year through a CA as long as the total amount of the payments to the State/Territory does not exceed the one (1) percent ceiling, or the annual budget limit for that fiscal year. A payment schedule for reimbursement of past costs will be devised by the State/Territory of _____ and the DoD.

F. Adjustments of Cost Estimates

The State/Territory or DoD may request a review of total estimated ER,D BRAC funded project costs covered by this Agreement once during the term of a CA. The total project costs shall be revised to reflect the new estimates. The ceiling of one (1) percent of the total project costs shall be adjusted based on the revisions of the total project costs since October 17, 1986. If the total project costs following the Record of Decision (ROD) or equivalent document are lower than previously estimated, the State/Territory remains entitled to payment as follows:

a. The State/Territory is entitled to payment of all services rendered prior to completion of the new estimate so long as they are within the ceiling of the previous estimate; and

b. Reimbursement of future incurred costs for providing services, at the option of the State/Territory, in an amount either:

1. Up to a total of previous and future costs of one (1) percent of the revised estimate; or,

2. The lesser of: (i) One quarter (¼) of one (1) percent of the post ROD or equivalent documents costs; or

(ii) The remaining balance of the one (1) percent entitlement under the previous estimate.

The State may add additional eligible installations and FUDS meeting the criteria identified in section I.A at any time during the two years by writing to the U.S. Army Corps of Engineers. No adjustment will be made to the cost basis as a result of such additions.

G. Procedures for Reimbursement

Procedures for State/Territorial reimbursement through (CAs) are as described in Attachment B and in accordance with Office of Management and Budget (OMB) Circulars A–102, A–87, and A–128. After a CA is awarded, the (State/Territorial Agency) may submit a request for advance or reimbursement to DoD on a quarterly basis. DoD will process the request and transfer funds in accordance with Circular A–102. Within sixty (60) days after the end of each quarter, the (State/Territorial Agency) shall submit to DoD a status report, including costs summaries which directly relate allowable costs actually incurred by the State/Territory under this Agreement during the quarter for services at each installation. Allowable costs shall be determined in accordance with this Agreement and Circular A–87. DoD shall reconcile continuing awards and close out completed awards in accordance with Circular A–102. Auditing of States/Territories programs shall be accomplished in accordance with Circular A–128.

H. Additional Work

When an installation requests that a State/Territory perform a specific technical study or similar technical support that could otherwise be done by a contractor, and (State/Territorial Agency) agrees to do the work, funding will be negotiated between the installation and the State/Territory outside this Agreement.

I. Emergencies

In an emergency situation involving a threat to public health or the environment, the State/Territory must, unless the nature of the emergency does not permit notification, notify the DoD Component prior to taking removal action in order to be reimbursed for its reasonable costs. Reimbursement of the State/Territory for its work will be handled directly between the DoD component and the State/Territory, and outside of this Agreement. Disagreements that arise under this paragraph are subject to the Dispute Resolution process in section IV.

Section II—Funding and the Priority System

A. The Office of the Deputy Assistant Secretary of Defense (Environment), as the designee of the Office of the Secretary of Defense responsible for carrying out the Defense Environmental Restoration Program, and the DoD components shall seek sufficient funding through the DoD budgetary process to carry out their obligation for response actions at DoD installations and FUDS, covered by the Agreement, within the State/Territory. Funds authorized and appropriated annually by Congress under the ER,D appropriation in the DoD Appropriations Act shall be the source of partial funds for all work contemplated by this Agreement.

B. Should the ER,D appropriation be inadequate in any year to meet the total DoD requirements for cleanup of hazardous or toxic contaminants, DoD shall establish priorities among sites in a manner which maximizes the protection of human health and the environment. In the prioritization process, DoD shall employ a model which has been and will be further developed with the assistance of the State/Territory and the EPA. Future enhancements or refinements to the model shall occur in consultation with the States/Territories and the EPA. DoD shall also involve the States/Territories and the EPA in its use of this prioritization model through review of technical site data. The DoD components shall receive and give full consideration to information provided by the States/Territories regarding factors to be considered in decision making in the annual prioritization process for allocating resources available for cleanups. The State/Territory accepts that a DoD prioritization system developed and operated as described in this subparagraph is needed and provides a reasonable basis for allocating funds among sites in the interest of a national worst first cleanup program. To the extent, the State/Territory will make every effort to abide by the priorities developed thereunder.

C. Nothing in this Agreement shall be interpreted to require obligation or payment with regard to a site remediation in violation of the Anti-Deficiency Act (31 U.S.C. 1341).

Section III—Lead Agencies

Each DoD Component shall designate an individual responsible for managing remedial and removal actions for each installation within the State/Territory. This individual shall be responsible for coordinating all tenant activities at the installation with regard to the remedial and removal action program. The individual will also act as remedial project manager (RPM) within the meaning of the National Contingency Plan (40 CFR part 300).

The State/Territory shall designate a lead State/Territorial agency for each DoD installation within the State/Territory. (This agency may vary by installation). The lead State/Territorial agency for an installation or Formerly Used Defense Site shall coordinate among other State/Territorial agencies to represent a single State/Territory position as to remedial/removal actions at the installation. The lead State/Territorial agency shall designate a State/Territorial Agency Coordinator (S/TAC) who shall be the single point-of-contact between the appropriate DoD component installation and the State/Territory regarding State/Territorial involvement in the remedial and removal actions program at the installation or FUDS.

Section IV—Dispute Resolution

A. The Remedial Project Manager (RPM) and the State/Territorial Agency Coordinator (S/TAC) shall be the primary points of contact to coordinate the remedial and removal program at each military installation within the State/Territory, including the resolution of disputes. With regard to installation or sites for which there are executed Federal Facility Agreements under CERCLA section 120, dispute resolution provisions as specified in those agreements shall govern. For other sites, it is the intention of the parties that all disputes shall be resolved at the lowest possible level of authority as expeditiously as possible within the following framework. All timeframes for resolving disputes below may be lengthened by mutual consent.

1. Should the RPM and S/TAC be unable to agree, the matter shall be referred in writing as soon as practicable but in no event to exceed ten (10) working days after the failure to agree, to the installation commander and the chief of the designated program office of the lead State/Territorial agency or their mutually agreed upon representatives designated in writing.

2. Should the installation commander and the chief of the designated program office of the lead State/Territorial agency or their mutually agreed upon representatives designated in writing be unable to agree within ten (10) working days after the matter has been referred to them, the matter shall be elevated to the head of the lead State/Territorial agency and a counterpart member of the lead Service involved who shall be a general/flag officer or a member of the senior executive service.

3. Should the head of the lead State/Territorial agency and the counterpart DoD representative fail to resolve the dispute within twenty (20) working days after the matter has been referred to them, the matter shall be referred to the Governor and the Service Secretary concerned for resolution.

B. It is the intention of the parties that all disputes shall be resolved in this manner. Alternative dispute resolution methods may be used. In the event that the Governor and the Service Secretary are unable to resolve a dispute, the State/Territory retains any enforcement authority it may have under State/Territory and Federal law.

Section V—Reopener

The terms of this Agreement may be modified at any time by mutual agreement of the parties. If a party requests the Agreement to be reopened but the other party does not concur, the reopener matter will be referred to an individual designated in writing by the signatories to this Agreement. In the event the two parties fail to agree concerning the reopener within ten (10) working days after the matter is referred to the above mentioned designated individual, the matter will be referred to the signatories of this Agreement or their successors in office. If no resolution is reached within twenty (20) working days after the matter is referred to the signatories of this Agreement or their successors in office, the Agreement shall not be reopened.

Section VI—Termination

This Agreement may be terminated by either party at the expiration of any CA entered into pursuant to this Agreement if the party seeking termination has notified the other party in writing at least ninety (90) days prior to the expiration of the CA. After receiving a notice of termination, a party may invoke the dispute resolution process in section IV. Each signatory of the agreement may involve other officials to whom they report in the process of resolution. The parties by mutual agreement may also refer the matter to the Governor of the State/Territory of _____ and his/her counterpart within the Department of Defense. Alternative dispute resolution methods may be used. Failing their agreement, the Agreement shall be considered terminated as of the date the CA expires.

State/Territory block for Agency signing on behalf of the State/Territory

DoD signature block

Attachment A to DSMOA DoD Installations Covered by the Agreement

State/Territory of

Army
1. e.g., Fort _____
2. etc.

Navy
1. e.g., Naval Air Station _____
2. etc.

Air Force
1. e.g., _____ Air Force Base
2. etc.

Defense Logistics Agency
1. e.g., Defense Supply Center _____
2. etc.

Installations/FUDS may be added to this list periodically as necessary in accordance with section V, reopener.

Attachment B to DSMOA

Procedures for State/Territory Reimbursement

• The Deputy Assistant Secretary of Defense for Environment (DASD(E)) and the Head of the Agency signing on behalf of the State/Territory will sign the DSMOA.

• the DSMOA is the overarching agreement of commitment between the DoD and the State/Territory, but does not obligate or commit funds.

• Reimbursement will be accomplished using Federal procedures for CAs, with States/Territories that have signed DSMOAs. Eligible activities are limited to those authorized for the Defense Environmental Restoration Program (DERP), and funded by the Defense Environmental Restoration Account (DERA), sections 2701 et seq., of title 10 U.S.C., and as specified in the DSMOA.

Reimbursement will commence as soon as possible with DERA funds.

• DoD policies and procedures for processing CA applications and payments will be developed with input from the States/Territories and announced in a **Federal Register** notice.

In general, these activities will be centralized in the ODASD(E).

It is anticipated that these policies and procedures will encompass the following: Who may apply; what can be funded; evaluation criteria for awards; submission procedures and closing dates for receipt of applications; and State/Territorial responsibilities.

Within this framework, it is anticipated that monitoring and quarterly reporting procedures for States'/Territories' program status and financial status will be developed.

• Administration of CAs will be in accordance with Office of Management and Budget (OMB) Circular A–102, Grants and Cooperative Agreements with State and Local Governments, and title 32 CFR part 278, Office of the Secretary of Defense, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.

A State/Territory will submit a complete application package for Federal assistance, consisting of: (1) Standard Form 424 (SF 424, Application for Federal Assistance), (2) SF 424A (Budget Information—Non-Construction Programs), (3) SF 424B (Assurances—Non-Construction Programs), (4) Cost Basis By Installation or FUDS, (5) Distribution of Projected Total Costs By Category, (6) Site Background and Status of Installation and/or FUDS, (7) Implementation Plan, (8) Expense Summary, (9) Certification Regarding Lobbying, (10) Drug Free Form (Drug-Free Workplace Act, 1988), (11) State Signature Authority Form, (12) Debarment and Suspension, and (13) Copy of the signed DSMOA. The State's/Territory's application must also include a description of the type and amount of support services that the State/Territory plans to provide for each installation and FUDS covered in the DSMOA for the specific award period of the CA.

CAs will be awarded for a term of two (2) years, based on an annual estimate of requirements. Applications will be accepted after signature of the DSMOA by both parties; DoD processing time for applications is expected to be two months.

The DASD(E) will accept the application, review it, and make a decision as to the award. This CA agreement, when signed by both the DASD(E) and the Head of the Agency signing on behalf of the State/Territory, comprises the contractual relationship between the DoD and the State/Territory.

States/Territories may request funds in accordance with the methods outlined in OMB Circular A–102 and 32 CFR Part 278. These documents provide for the following methods of payment: (1) Reimbursement, and (2) Working Capital Advances. A State/Territory may request a payment method in its CA application.

• Allowable costs will be determined in accordance with OMB Circular A–87, Cost Principles for State and Local Governments. Specific services to be provided by the States/Territories will be as described in the DSMOA.

• Auditing of State/Territorial programs will be accomplished in accordance with OMB Circular A–128, Audits of State and Local Governments.

The following is additional information regarding the general procedures that DoD plans to use in implementing DSMOAs and CAs with the States/Territories:

1. DoD DASD(E) will invite States/Territories to sign DSMOAs and submit applications for CAs.

2. DASD(E) will send a memorandum (Attachment C) to the DoD Components (Army, Navy, Air Force, DLA, and other DoD agencies) asking them to cooperate with the States/Territories and compile necessary data. The States/Territories and Installations will communicate directly on response activities anticipated to take place over the next years and on the total DERA cost estimate.

3. DoD Components will use their Chain-Of-Command to develop and pass on data to DASD(E): Component Headquarters will give the message to their Major Commands (e.g., Army Material Command), and the Major Commands will forward the message to their installations (e.g., Sacramento Army Ammunition Depot).

4. The Components will provide information, obtained from their Installations and Major Commands, DASD(E) by State/Territory.

5. Each State/Territory will contact DASD(E) about its desire to have a DSMOA and CA, and works with DoD to have State/Territory-specific information inserted into the provisions where indicated in the model language and to fill out the CA application.

6. DASD(E) and the State/Territory will sign the DSMOA and the CA.

7. The State/Territory will submit requests for payment in advance based on anticipated workload or for reimbursement of services provided under the CA, on a quarterly basis.

8. Quarterly In-Process Reviews (IPRs), alternative arrangements by mutual consent, will be held between DASD(E) staff and the State/Territorial agency. IPRs will include State/Territorial progress reports concerning activities and funding.

9. CA audits will be carried out in accordance with OMB Circular A–128.

Attachment C

July 18, 1989.

E

Memorandum for Deputy Assistant Secretary of the Army, Environment, Safety and Occupational Health, OASA (I & L), Deputy Director for Environment, OASN (S & L) Deputy Assistant Secretary of the Air Force, (E,S &OH), SAF/RQ Director, Defense Logistics Agency (DLA–W)

Subject: DoD Components' Cooperation with the States for Cooperative Agreements on Site Cleanups

I am sending letters to the directors of State environmental agencies inviting them to enter into DoD and State Memoranda of Agreements (DSMOAs). There has been a recent strong State expression of interest in them. I request that you inform the appropriate people in your Component that they should be ready by mid-July to respond to requests from the States for information necessary for the States to prepare applications for cooperative agreements (CAs) in accordance with Attachment B of the model DSMOA language.

Once a State and I have signed a DSMOA or started the process towards signature, the lead State agency can be expected to contact persons or offices designated by the Components as being "lead" for the Installation Restoration Program (IRP) for the installations listed in Attachment A of the DSMOA. States will need to determine what DERA-funded activities the installations have planned for the period of the proposed CAs (FY90/91). Each State will use this information to help prepare its application for a cooperative agreement and its request for funds. The designated installation representative should also give information to the State regarding probable *DERA-funded* activities through the life of the program, including total estimated cost. This will help the State plan its activities under the lifetime cap. The cost information should be acceptable to you before it is provided to the States.

This information is generally available from your program planning activities, FY90/91 DERA budget development data, and anticipated RI/FS results. States should also have much of this information if they are receiving notice of program activities and participating in such area as: review of program planning and IRP documents, meetings of technical review committees, negotiation and implementation of interagency agreements, and public participation activities.

Since the CAs will be centrally administered by DoD, we request Components to give my office the same total DERA cost information you provide the States. We would also like a summary of planned activities for the next two years (FY90/91) that the installation IRP representatives give to the States. Please try to provide this within four weeks of giving it to the States. Since the CAs are envisioned to encompass two years, the information on planned program activities and cost estimates will need to be updated every two years. During the CA period, if there is a

significant change in response activities or estimated costs, the Component should notify the State as soon as possible. I will be providing you additional guidance on this matter in the *next two weeks.*

Please provide a copy of the attached model DSMOA language to those who will be responsible for providing the necessary information to the States.

We will also provide more detailed information in the following documents as they are developed:

• DoD Policies and Procedures for the Cooperative Agreements Program under DSMOAs

• *Federal Register* notice announcing the program and the availability of funds.

Cooperation and communication are paramount to the success of this program. I encourage you and your installations to make every effort to continually build a good working relationship with your counterparts in the State agencies. I believe that a cooperative effort with the states, to include mutual consideration of each others comments and program objectives, is the key to cost-effective and timely execution of the Defense Environmental Restoration Program.

Thank you for your continuing efforts in making the program a success. If you have questions or comments, Sam Napolitano remains my point of contact for DSMOAs and Lt Col Ken Cornelius has the lead in carrying out the CA Program. You may reach either of them at (202) 325–2211 (Autovon: 221–2214) in our offices in Alexandria, Virginia.

William H. Parker, III, P.E.,

Deputy Assistant Secretary of Defense (Environment).

Attachment

The Office of the Assistant Secretary of Defense.

Washington, DC 22202–2884.

Dated: June 1, 1992.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense

[FR Doc. 92–13199 Filed 6–26–92; 8:45 am]

BILLING CODE 3810–01–M

National Security Telecommunications Advisory Committee Meeting

AGENCY: National Communications System, DoD.

ACTION: Notice.

SUMMARY: A meeting of the National Security Telecommunications Advisory Committee will be held on Friday, July 17, 1992. The business session and the executive session of the meeting will be held at the Old Executive Office Building.

Business Session

Call to Order
Task Force Briefings (ECC, NS, Energy)
IES Report
Manager's Report

Executive Session

Call to Order
NSTAC 10 Year Anniversary
Past NSTAC Chairmen Honored
Adjournment

Due to the requirement to discuss classified information, in conjunction with the issues listed above, the meeting will be closed to the public in interest of National Defense. Any person desiring information about the meeting may telephone (703) 692–9274 or write the Manager, National Communications System, 701 S. Court House Road, Arlington, VA 22202–2199.

Dated: June 23, 1992.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 92–15139 Filed 6–26–92; 8:45 am]

BILLING CODE 3810–01–M

Department of the Army; Corps of Engineers

Storm Damage Reduction Plan Atlantic Coast of Long Island, From Jones Inlet to East Rockaway Inlet, Long Beach Island, NY

June 18, 1992.

AGENCY: Corps of Engineers, Army, DOD.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY: The New York District of the U.S. Army Corps of Engineers plans to begin preparation of a Draft Environmental Impact Statement (DEIS) for proposed measures for storm damage reduction for the Atlantic Coast of Long Island, from Jones Inlet to East Rockaway Inlet, Long Beach Island, New York (study area). This project is necessary due to continual erosion leading to a decrease in the width of beach and a loss of beach material during severe storms and hurricanes. Due to the erosion and the lack of sufficiently high beaches, berms or dune systems, residential and commercial developments have become increasingly susceptible to storm damage from flooding and wave attack.

FOR FURTHER INFORMATION CONTACT: Attn: Clifford S. Jones III, Project Manager, (212) 264–9077. Attn: Peter M. Weppler, EIS Coordinator, (212) 264–4663. Planning Division, Corps of Engineers, New York District, 26 Federal Plaza, New York, New York 10278–0090.

SUPPLEMENTARY INFORMATION: This action was authorized by a Resolution of the House Committee on Public Works and Transportation adopted October 1, 1986.

1. Location and Description of Proposed Action

Long Beach Island, New York, a barrier island, is located on the Atlantic Coast of Long Island, between Jones Inlet and East Rockaway Inlet. The project study area lies within Nassau County, New York and is encompassed by the communities of Point Lookout, Lido Beach, the City of Long Beach and the Village of Atlantic Beach. All unincorporated areas are under the jurisdiction of the Town of Hempstead. The study area is bounded on the east by Jones Inlet, on the south by the Atlantic Ocean, on the west by East Rockaway Inlet, and on the north by Reynolds Channel. The reconnaissance study dated March 1989 identified a potential solution for storm damage protection consisting of constructing a 110-foot wide berm at an elevation of +10 feet National Geodetic Vertical Datum (NGVD) backed by a dune system to an elevation of +15 NGVD. The project would be periodically nourished with beach fill. Proposed sand sources would be from offshore borrow areas, which are currently being investigated. In addition to beach fill, the plan includes rehabilitation of thirty (30) groins/jetties and the reconstruction of the terminal groin at Point Lookout.

2. Reasonable Alternative Actions

The reconnaissance study recommended plan has a design berm height of +10 feet NGVD, berm width of 110 feet and dune elevation of +15 feet NGVD. Berm elevations of 9 feet NGVD, berm widths of 100 and 140 feet, and 18-foot dune heights were evaluated. The "No Action" alternative failed to meet needs and objectives of the subject project. The "Buyout" plan was not economically justifiable. The ongoing feasibility study will further consider these beach fill alternatives, and others, including, but not limited to, "hard structures" such as groin fields, seawalls, revetments, and breakwaters to identify an economically optimal plan.

3. Scoping Process

A. Public Involvement

A separate scoping correspondence detailing the proposed plan will be distributed to all appropriate public and private agencies and organizations with the intent of receiving opinions all from interested parties. Additions to this mailing list can be made by notifying the project EIS coordinator.

B: Significant Issues Requiring In-Depth Analysis

1. Water Quality Impacts.
2. Archaeological and Cultural Resources Impacts.
3. Aquatic and Terrestrial Resources Impacts.
4. Shorebird Populations.
5. Recreational Impacts.
6. Longshore Sand Transport.

C: Environmental Review and Consultation

Review will be conducted as outlined in the Council on Environmental Quality regulations dated November 29, 1983 (40 CFR parts 1500–1508) and U.S. Army Corps of Engineer regulation ER 200–2–2 dated March 4, 1988.

4. Scoping Meeting

A scoping meeting, if needed, will be scheduled at a later date.

5. Estimated Date of DEIS Availability

January 1994.

Bruce A. Bergmann,

Chief, Planning Division.

[FR Doc. 92–15121 Filed 6–26–92; 8:45 am]

BILLING CODE 3710–06–M

Department of the Army

U.S. Army Reserve Command Independent Commission; Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee meeting:

Name of Committee: U.S. Army Reserve Command Independent Commission.

Date of Meeting: July 20, 1992.

Place: 1225 Jefferson Davis Highway, suite 1410, Arlington, Virginia 22202.

Time: 9 a.m.–5 p.m.

Purpose: The Commission was established to assess the progress and effectiveness of the United States Army Reserve Command since its establishment.

Summary of Agenda: This is the fifth meeting of the Commission. The Commission will review the command and control of the other reserve components and receive briefings concerning the advantages and disadvantages of the USARC becoming a MACOM.

This meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the matter permitted by the committee. Anyone desiring to appear before the committee should contact the staff for procedures.

Ellis L. Pennington,

LTC, FA, U.S. Army Reserve Command, Independent Commission.

[FR Doc. 92–15175 Filed 6–26–92; 8:45 am]

BILLING CODE 3710–01–M

Military Traffic Management Command, Directorate of Personal Property, CONUS Automated Rate System (CARTS): Proposed Changes

AGENCY: Military Traffic Management Command (MTMC), Department of the Army, DoD.

ACTION: Notice of proposed changes in procurement policy.

SUMMARY: The Military Traffic Management Command (MTMC) is proposing changes to the CONUS Automated Rate System (CARTS) program. This program is the method by which interstate household goods rates are procured for Department of Defense (DOD)-sponsored interstate household goods shipments. A test of the proposed changes will be conducted for 1 year at certain personal property shipping offices (PPSOs).

DATES: Comments must be received by August 28, 1992.

ADDRESSES: Comments may be mailed to Headquarters, Military Traffic Management Command, ATTN: MTPP–CD, room 408, 5611 Columbia Pike, Falls Church, VA 22041–5050.

FOR FURTHER INFORMATION CONTACT: Janet Nemier at (703) 756–1190.

SUPPLEMENTARY INFORMATION: On February 12, 1990, the General Accounting Office (GAO) issued a report (GAO/NSIAD–90–50) requesting that the DOD replace or modify the interstate household goods rate program. GAO's report concluded DOD's two-phase system for obtaining rates for moving household goods is not truly competitive in that it limits the incentive carriers have to initially offer low rates. They recommended that DOD introduce more competition into its procedures for obtaining rates from commercial household goods carriers. Although GAO did not make specific recommendations for replacement or modification of the current bidding system, they state, "a one-phase bidding system, whereby, all carriers have equal incentive to bid the lowest possible rates and those offering the lowest rates are rewarded with all the traffic they can handle on the routes for which they are low bidders, would probably provide the carriers the most incentive to offer their lowest rates initially." In addition, GAO suggested that, "if DOD determines that such a bidding system would not provide it the moving capability it needed, or would result in an unacceptable quality of service, it could modify the two-phase bidding system so that the carrier offering the lowest rate during the first phase is allocated a greater share of the traffic than any other carrier simply meeting the low rate."

On December 27, 1991, GAO issued a second report (GAO/NSIAD–92–61) requesting that the DOD accelerate implementation of GAO's previous recommendation to replace or modify the interstate household goods rate program.

HQMTMC reviewed these GAO reports, the process by which rates are presently solicited, and the impact of the proposed change on moving capability. Changes to the process for securing domestic household goods moving rates may increase competition among carriers and could result in savings to the DOD. Accordingly, MTMC intends to conduct a test program using a revised process for the submission of interstate moving rates by carriers and the subsequent offering and award of shipments by PPSOs to carriers at selected CONUS installations.

A summary of MTMC's proposed changes is as follows:

A 12-month filing cycle will replace the current 6-month cycle. The effective date is yet to be determined.

The process for the first or initial rate submission by carriers for the filing cycle will not be changed. This submission provides carriers maximum flexibility to establish the specific, compensatory rates at which they desire to move household goods shipments from any origin PPSO to any destination state. Carriers will be allowed one opportunity to correct any rates rejected by HQMTMC in the initial submission. There are a number of reasons for rejection of rates. Some examples of rejections are: A missing data element, information in a blank that must be left blank, no interstate DOD approval, and no approval to or from Alaska for code of service indicated.

In the current system, carriers are allowed to meet any rate lower than theirs filed in the initial filing cycle. This process is accomplished in a second filing, commonly referred to as the "me-too" cycle. Under the test procedures, once the initial cycle is completed, carriers will be provided the low rate for each channel (i.e., origin PPSO to destination state). Carriers will be provided one opportunity to adjust their rate to meet the low rate filed for a given channel. There will be no correction submission. If a carriers' adjusted rate is rejected, the rate filed by the carrier in the initial submission will be carrier's effective rate. Carriers not desiring to adjust their initial filed rate, to meet the low rate filed on a channel, will have their initial rate as the HQMTMC accepted rate. A carrier's

initial filed rate or adjusted rate, wherein a carrier has met the low rate on a channel, will be the accepted rate at which services must be provided and charges billed during the performance period.

PPSOs will offer and award shipments in an ascending order from the initial low rate carrier, carriers that agree to meet the low rate, and the remaining carriers. Distribution and award of traffic to carriers, other than the low rate carriers, will be based on a carrier's rate and performance score on previous shipments, as developed under the Total Quality Assurance Program (TQAP). TQAP will be the basis for establishing a traffic distribution record for shipment offerings and awards when two or more carriers have identical rates or when more than one carrier adjusts their rate to meet the low rate.

The current four Letter of Intent(LOI)/ cancellation cycles will be changed to two cancellation submissions per year. Carriers will be required to have a valid LOI on file at the origin PPSO by the initial filing submission deadline to participate. Carriers will no longer be able to file rates out of cycle based on a new LOI filing at a PPSO.

A tonnage incentive will be implemented on each rate channel (i.e., origin PPSO to destination state). A carrier submitting the initial low rate on a traffic channel will be offered a percentage of the tonnage based on historical traffic volume (weight) estimate from the PPSO. The residual tonnage will be shared by the carrier determined as the low rate setter, other carriers filing at the low rate in the initial submission, and carriers adjusting to the low rate. Residual tonnage is that tonnage which remains after the initial low rate carrier has been offered the incentive tonnage.

The incentive tonnage offered to a carrier will be based on the previous year's tonnage shipped from the installation to a destination state. Incentive tonnage will be as follows:

Estimated tonnage (pounds)	Incentive percentage
200,001 and above	25
50,001–200,000	37
50,000 and below	75

The proposed test PPSOs are as follows:

Camp Pendleton, CA
MacDill AFB, FL
Fort Benning, GA
Scott AFB, IL
Fort Riley, KS
Camp Lejeune, NC
NETC Newport, RI
NSC Charleston, SC
JPPSO San Antonio, TX
NAS Corpus Christi, TX
Hill AFB, UT
JPPSO Lewis, WA

For the limited purposes of this test program, the rate filing schedule will be modified to reflect the following: (Deadline dates will be provided at a later date.)

VOLUME (NO.) RATE FILING SCHEDULE EFFECTIVE (DATE IS YET TO BE DETERMINED)

Action	Responsibility
Initial submission	Carrier.
Distribute initial submission carrier accepted and error reports.	MTMC.
Initial submission corrections	Carrier.
Distribute correction submission carrier accepted and error reports.	MTMC.
Distribute invalid LOI removed records edit report.	MTMC.
Distribute initial low rate submissions.	MTMC.
Adjustment submission	Carrier.
Distribute adjustment submission carrier accepted and error reports.	MTMC.
Distribute final accepted rates	MTMC.
Cancellation submission (Effective (Date)).	Carrier.
Cancellation submission (Effective (Date)).	Carrier.

Proposed Changes: Proposed changes to the CARTS Instructions for the test sites are as follows:

Part I—Introduction

No change.

Part II—Procedures

2000. Initial Submission

a. *General:* There is one initial submission per year. During this submission, competitive rate levels are established to move DOD/USCG personal property shipments within CONUS (including Alaska). The initial submission allows carriers maximum flexibility to establish the specific, compensatory rates at which they desire to move personal property shipments from any origin PPSO to any destination state. Filing deadlines are announced in a solicitation letter prior to the filing cycle.

b. *Initial Submission:* The individual rate records, contained on magnetic tapes, will be subject to edit and validation criteria. Separate printouts will be provided for each carrier of its accepted rates and its rejected rates (see paragraph 2005e).

c. *Correction Submission:* Carriers are allowed to correct rates rejected in the initial submission. Magnetic tapes must contain only the corrected rates. No other rate corrections or additions will be allowed. The individual rate records contained on the tapes will again be subject to the same edit and validation criteria as in the initial filing submission. Separate printouts will be provided for each carrier of its accepted rates and its rejected rates.

Note: Deleted.

d. Deleted.

Note: In the rate adjustment submission, rates may be filed only for those individual records (i.e., origin/destination and code of service combinations) for which a carrier has an accepted initial rate record.

2001. Rate Adjustment

a. *General:* There is one rate adjustment submission each year in conjunction with the initial submission. The rate adjustment submission provides carriers with the opportunity to adjust their rates downward to the lowest rate established for a particular channel during the initial filing submission. Carriers may remain at their initial rate. In order to participate in the rate adjustment submission, a carrier must have an accepted individual rate record established in the initial submission.

b. *Rate Adjustment Submission:* The individual rate records contained on magnetic tapes will be subject to edit and validation criteria. Separate printouts will be provided for each carrier of its accepted rates and its rejected rates. Rates from the initial submission that were not changed will be included in the accepted rates printout.

c. Deleted.

Notes

(1) A carrier's individual rate record, accepted in the initial submission, will automatically remain in effect if the carrier does not participate in the rate adjustment or the rate adjustment record is rejected.

(2) An accepted adjusted rate replaces the initial submission and, therefore, the initial rate will no longer apply.

2002. Cancellation Submissions: There are two cancellation submissions allowed each cycle. The schedule for these submissions will be announced in the solicitation letter prior to the filing cycle. The cancellation submissions provide carriers with the opportunity to cancel existing rates.

2003. Filing Schedule: There will be one filing cycle each year. Filing deadlines will be announced in the solicitation letter prior to the filing cycle.

2004. Deleted.

2005. No change to a, b, c, d, and e.

f. *Carrier Certification and Return:* Carriers are responsible for reviewing and certifying the accuracy and completeness of rates listed on their Carrier Accepted Rates Printout. The original last page of the Carrier Accepted Rates Printout for the rate adjustment and cancellation submissions must be hand-signed, detached, mailed, and received by MTMC within 15 working days of the run date indicated in the header of each printout. The individual signing the certification must be a corporate official having authority to sign on behalf of the carrier and this signature must be on file with MTMC. If a carrier fails to meet the required deadline or the certification page does not contain an authorized signature, the following procedures will be implemented:

(1) No change.

(2) No change.

2006. Origin/Destination Combinations: A carrier or automatic data processing servicing firm must submit all individual rate records, for each origin PPSO, on a single magnetic tape submission. Area of responsibility to state will be the only filing option (origin/destination combination) permissible. Rates will be provided in alphabetical order by Standard Carrier Alpha Code. Only one individual rate record for each origin/destination and code of service combination will be allowed (i.e., avoid duality).

2007. No change.

2008. No change.

2009. Tonnage Distribution

a. A carrier submitting the initial low rate on a traffic channel will be awarded an incentive percentage of traffic based on historical tonnage estimates. If more than one carrier is at the low rate, the carrier with the highest TQAP score will be considered the low rate setter. The low rate setter must meet all qualification standards of the DOD domestic interstate program and have an acceptable TQAP score. Historical shipment performance data will be used for determining the TQAP score.

b. The residual tonnage will be shared by the carrier determined as the low rate setter, other carriers filing at the low rate in the initial submission, and carriers adjusting to the low rate. Ranking of carriers will be based on TQAP scores (high to low).

c. The incentive tonnage will be as follows:

Channel estimated tonnage (lbs)	Low rate filer incentive percentage
200,001 and above	25
50,001–200,000	37
50,000 and below	75

d. Tonnage estimates will be provided with each filing cycle announcement letter.

Part III—Miscellaneous Instructions

3000. No change.

a. No change.

b. A carrier must have a valid LOI on file at each PPSO where rates are filed by the deadline for the initial filing submission.

c. A valid LOI verification will be performed by the PPSOs on carriers submitting low rates in the initial submission. The CARTS Invalid LOI Removed Records Report will be provided to each carrier when an invalid LOI has been reported by a PPSO. It is the carrier's responsibility to confer immediately with the PPSO if they feel the information on the report is in error, and provide proof to MTMC that the report is incorrect. A final copy of the Removed Records Report will be provided to carriers whose rates are removed due to no LOI. These rates will be removed from the CARTS system prior to printing of the low rate tape.

d. Carriers final rates will also be reviewed by the PPSOs for valid LOIs. If a carrier filing rates did not have a valid LOI by the deadline (date is shown in the filing cycle letter), both the carrier and MTMC will be advised by the PPSO. Carriers may be disqualified or placed in nonuse by MTMC if they do not have a valid LOI on the cutoff date.

Note: Deleted.

3001. No change.

3002. Deleted for test.

3003. No change.

3004. *Name/Ownership Change*: When a carrier undergoes a name and/or ownership change, the carrier must maintain existing rates or cancel them during one of the two cancellation submissions.

a. *Name Change*: For administrative purposes, carrier will continue to use the old name and SCAC reference until the end of the existing cycle. Then, for the following cycle, will use the new name and SCAC reference. Carriers will still be required to obtain approval by MTMC, and new LOIs must be filed at each PPSO served to show the carrier's new name.

b. *Ownership Change*: The carrier must notify MTMC of a change in ownership and, after acceptance by MTMC, new LOIs must be filed at each PPSO served. Carriers may continue the existing rates filed by the previous management or cancel them during one of the two cancellation submissions.

3005. No change.

3006. *Personal Property Rates—Public File*: All accepted rates are available for review at MTMC in the Rate Acquisition Division's Public File, room 408. MTMC will provide a copy of the initial low rates in tape form to all carriers filing rate tapes and all computer companies filing tapes on behalf of DOD-approved carriers. In addition, a tape of all accepted rates will be provided after the completion of the rate adjustment. Tapes are available in densities of 1600 BPI (7152400) and 6250 BPI (7152401). MTMC should be advised of density desired (see Part V, Appendixes B and C, for format).

3007. *Effective Period for Accepted Rates*: Rates, accepted by MTMC, must remain in effect until the first cancellation submission after the MTMC acceptance date but cannot be in effect for more than the duration of the rate cycle.

a. Deleted.

b. Deleted.

3008. Cancellation of Rates

a. *Rate Adjustment Submission:* Rates, accepted in the initial submission, will be considered cancelled when the carrier adjusts to the low rate of an origin/destination and code of service combination, otherwise rates, filed in the initial submission, remain in effect unless cancelled in one of two cancellation submissions.

b. *Cancellation Update Filing Submissions*: Carriers will be allowed to cancel rates on file two times during each cycle. Filing deadlines will be announced in the solicitation letter prior to each cycle. Carriers will submit these cancellations on magnetic tape in accordance with these instructions.

Part IV—Preparation of Machine Readable Magnetic Rate Tape

4000. No change.

4001. *Disposition of Magnetic Tapes*: Carrier or ADP servicing firm magnetic tapes will be returned by MTMC upon completion of the rate cycle.

4002. *Acceptance/Rejection of Magnetic Rate Tape Submission*:

a. *General*: Each rate tape submission, received by MTMC, will be subject to edit and validation criteria and will be reviewed for accuracy of individual rate records prior to acceptance, distribution,

and use or rejection. Carriers, even if an ADP servicing firm is used, are solely responsible for proper preparation of magnetic rate tapes, and errors will cause rejections.

b. and c. No change.

d. *Late Submissions of Magnetic Rate Tapes*:

(1) Initial and rate adjustment submissions. Rate tapes received after the filing deadlines, will constitute final rejection.

(2) Cancellation Submission. Cancellation rate tapes will be considered for the appropriate submission, depending upon which filing deadline the tapes are received. Tapes, received after the filing deadline, will be returned to carrier or ADP servicing firm unprocessed.

4003. Correction of Non-Readable Tapes

a. *General*: Magnetic rate tapes (both original and duplicate), not usable by MTMC because of improper preparation and not replaced by the filing deadline (see paragraph 4000), will be rejected and returned to carriers or designated ADP servicing firms. This rejection of magnetic tape constitutes the final rejection of individual rate records contained on the tape.

b. *Rate Tape Submissions*: Carriers cannot submit a replacement tape after the deadline.

c. Deleted.

4004. No change.

4005. *Receipt of Submissions*: Filing schedules and deadline dates, for each rate filing submission, will be provided in the solicitation letter prior to each cycle. Submissions must be received in room 408, 5611 Columbia Pike, Falls Church, Virginia 22041–5050, by 12:00 noon, Eastern Standard (daylight) Time, of the last Federal Government workday of an authorized filing period. MTMC will not be responsible for tapes not arriving on time at the specified location. Tapes, received after the close of the filing period, will be rejected along with a statement not to resubmit.

4006. No change.

Kenneth L. Denton,

Army Federal Register Liaison Officer.

[FR Doc. 92–15120 Filed 6–26–92; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF EDUCATION

Office of Postsecondary Education

National Science Scholars Program

AGENCY: Department of Education.

ACTION: Notice of the closing date for the submission of fiscal year 1993 Scholar nominations under the National Science Scholars Program.

SUMMARY: The Secretary of Education (Secretary) gives notice of the closing date and procedures for the State nominating committees approved by the Secretary to submit the names of fiscal year 1993 nominees to the President under the National Science Scholars Program (NSSP) authorized by Title VI, Part A of the Excellence in Mathematics, Science and Engineering Education Act of 1990, Public Law 101–589 as amended, 20 U.S.C. 5381 *et seq.* (the Act). The NSSP supports AMERICA 2000, the President's strategy for moving the Nation toward the National Education Goals, by providing scholarships and other benefits to students selected by the President for undergraduate study of the physical, life, or computer sciences, mathematics, or engineering. National Education Goals 3 and 4 call for American students to demonstrate competency in mathematics and science and to be first in the world in those subjects by the year 2000.

The Secretary will accept the names of nominees on behalf of the President from the nominating committees of the States participating in the NSSP, including the 50 States and the District of Columbia, Puerto Rico, American Samoa, Guam, the Commonwealth of the Northern Marina Islands, and the Virgin Islands. Each State nominating committee must submit for consideration the names and pertinent information of at least four nominees from each congressional district in the State. The Act provides that at least one half of the nominees from each congressional district must be female and all of the nominees must be ranked in order of priority within each congressional district. A State with an approved nominating committee that desires to have a nominee considered for selection as a National Science Scholar must provide each nominee's name, permanent address, home telephone number, social security number if provided by the nominee, sex, congressional district, congressional representative's or delegate's name for that congressional district, priority ranking within the congressional district, and NSSP subject area in which the nominee intends to major and specific major if known.

CLOSING DATE AND MEDIA FOR TRANSMITTING NSSP NOMINEE INFORMATION: A State must provide its NSSP nominations for fiscal year 1993 by—

(1) Submitting the nominee information in typewritten format;

(2) Submitting the nominee information on a data diskette provided by the U.S. Department of Education that the U.S. Department of Education sends directly to all States; or

(3) Submitting the nominee information through a modem using a software program on a diskette provided by the U.S. Department of Education that the U.S. Department of Education sends directly to all States.

To ensure that State nominees are considered for fiscal year 1993 funds, a State must submit nominee information by November 2, 1992.

STATE NSSP NOMINATIONS DELIVERED BY MAIL: NSSP nominations must be sent to the address provided below.

A State must obtain proof of mailing consisting of one of the following: (1) A legibly dated U.S. Postal Service postmark; (2) a legible mail receipt with the date of mailing stamped by the U.S. Postal Service; (3) a dated shipping label, invoice, or receipt from a Commercial Carrier; or (4) any other proof of mailing acceptable to the Secretary.

If a State's NSSP nominations are sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (2) A private metered postmark; or (2) a mail receipt that is not dated by the U.S. Postal Service. A State should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, a State should check with its local post office. A State is encouraged to use registered or at least first-class mail.

Each State submitting nominations after the closing date will be notified that its nominee cannot be assured of consideration for fiscal year 1993 funding.

ADDRESSES: Nominations that are mailed must be sent to the following address: National Science Scholars Program, U.S. Department of Education, Office of Student Financial Assistance, ROB–3, room 4621, 400 Maryland Avenue, SW., Washington, DC 20202–5453.

STATE NSSP NOMINATIONS DELIVERED BY HAND: State NSSP nominations that are hand-delivered must be taken to the U.S. Department of Education, Office of Student Financial Assistance, 7th and D Streets, SW., room 4621, GSA Regional Office Building #3, Washington, DC 20202–5453. Hand-delivered nominations will be accepted between 8 a.m. and 4:30 p.m. daily (Eastern time), except Saturdays, Sundays, and Federal holidays.

State nominations that are hand-delivered after 4:30 p.m. on the closing date cannot be assured of consideration.

STATE NSSP NOMINATIONS TRANSMITTED THROUGH A MODEM: NSSP nominations transmitted to the U.S. Department of Education through a modem must be transmitted to (301) 587–2187. Modem transmissions must be received by the server (computer) no later than November 2, 1992. The transmission will be acknowledged by the server through transmission of a file to the sender that will display on the sender's computer screen, providing proof of the U.S. Department of Education's receipt of the transmission.

PROGRAM INFORMATION: Under the NSSP, the Secretary is authorized to award scholarships to outstanding students selected by the President for the study of physical, life, or computer sciences, mathematics, or engineering. The Secretary is authorized to award initial scholarships of up to $5,000 for the first year of undergraduate study to graduating high school students as well as continuation awards of up to $5,000 for up to four additional years of undergraduate study. Based on an authorization of $10 million for fiscal year 1993 and on the assumption that all States participate in the NSSP for fiscal years 1992 and 1993, the estimated award for recipients in fiscal year 1993 is expected to be approximately $3,900.

Note: The Secretary is not bound by any estimates in this notice.

APPLICABLE STATUTORY AND REGULATORY PROVISIONS: The following statute and regulations are applicable to the fiscal year 1993 NSSP:

(1) The program statute, 20 U.S.C. 5381 *et seq.*

(2) National Science Scholars Program regulations, 34 CFR Part 652.

(3) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75 (with the exception of subpart C, §§ 75.200–75.216, 75.218, and 75.220–75.261 of subpart D, and §§ 75.580–75.592 of subpart E), 77, 79, 81, 82, 85, and 86.

INTERGOVERNMENTAL REVIEW: This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79. The objective of Executive Order 12372 is to foster an intergovernmental partnership and strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

FOR FURTHER INFORMATION CONTACT: For further information contact Ms. Denise Boulanger, State Grant Section, Office of Student Financial Assistance, U.S. Department of Education, Washington, DC 20202–5447; telephone (202) 708–4607. Deaf and hearing impaired individuals may call: the Federal Dual Party Relay Service at 1–800–877–8339 (in Washington, DC, 202 area code, telephone 708–9300) between 8 a.m. and 7 p.m., Eastern time.

(Authority: 20 U.S.C. 5381 *et seq.*)

(Catalog of Federal Domestic Assistance Number 84.242, National Science Scholars Program)

Dated: June 19, 1992.

Carolyn Reid-Wallace,

Assistant Secretary for Postsecondary Education.

[FR Doc. 92–15168 Filed 6–26–92; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project Nos. 2016–018 et al.]

Hydroelectric Applications [City of Tacoma, Washington et al.]; Applications

Take notice that the following hydroelectric applications have been filed with the Commission and are available for public inspection:

a. *Type of Application:* Amendment of License.

b. *Project No:* 2016–018.

c. *Date Filed:* July 25, 1991.

d. *Applicant:* City of Tacoma, Washington.

e. *Name of Project:* Cowlitz River Project.

f. *Location:* On the Cowlitz River in Lewis County, Washington.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. § 791(a)–825(r)

h. *Applicant Contact:* Steve Klein, Power Manager, City of Tacoma, Washington, Department of Public Utilities, P.O. Box 11007, Tacoma, WA 98411, (206) 593–8294.

i. *FERC Contact:* Paul Shannon, (202) 219–2866.

j. *Comment Date:* August 3, 1992.

k. *Description of Amendment*: The City of Tacoma requests authorization to do the following:

1. Modify the Barrier Dam fishway entrance and channels and the salmon hatchery fish drains. The licensee consulted with resource agencies concerning the proposed modifications during consultation for the adjacent Barrier Dam Project, FERC No. 11076. The resource agencies recently commented on these modifications after the Commission issued a public notice for the licensing of the Barrier Dam Project on September 10, 1991. The licensee feels the modifications are appropriate measures to protect the fisheries resources from potential impacts associated with Project No. 11076. However, the facilities are mitigation and enhancement components of the Cowlitz River Project. Therefore, the City of Tacoma proposes to amend the license of the Cowlitz River Project to reflect the modifications.

2. Exclude the Barrier Dam and Reservoir from the Cowlitz River Project's boundary. The City of Tacoma proposes to install a rubber spillway crest weir and gate to the Barrier Dam Project development. Therefore, the licensee's application proposes to include the Barrier Dam and Reservoir as project features of the Barrier Dam Project.

1. *This notice also consists of the following standard paragraphs: B, C, and D2.*

a. *Type of Application:* Subsequent License.

b. *Project No.:* 2417–001.

c. *Date Filed:* December 23, 1991.

d. *Applicant:* Northern States Power Company.

e. *Name of Project:* Hayward Hydro Project.

f. *Location:* On the Namekagon River in Sawyer County, Wisconsin.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Anthony G. Schuster,, Vice President, Power Supply, Northern States Power Company,100 North Barstow Street, P.O. Box 8, Eau Claire, WI, (715) 839–2621.

i. *FERC Contact:* Ed Lee (202) 219–2809.

j. *Comment Date:* August 3, 1992.

k. *Status of Environmental Analysis:* This application is not ready for environmental analysis at this time—see attached standard paragraph E1.

1. *Description of Project:* The project as licensed consists of the following: (1) Three existing earthen embankments, the first 200 feet long, the second 80 feet long and the third 85 feet long, with concrete and steel sheetpile retaining walls present on the upstream and downstream ends; (2) an existing concrete over-flow spillway, approximately 120 feet long and founded on rock-filled timber cribbing, containing ten stop-log bays separated by concrete spillway piers; (3) an

existing reservoir with a surface area of 247 acres and a total volume of 2,000 acre-feet at the normal maximum surface elevation of 1187. 4 feet MSL; (4) an existing concrete intake channel, about 42 feet long with side walls approximately 12.5 feet high and a width ranging from 13 feet to 8 feet, containing (a) a steel trashrack, and (b) a headgate; (5) an existing powerhouse with a concrete substructure and a brickmasonry wall superstructure, approximately 18 feet wide 24 feet long and 27.5 feet high, containing (a) a vertical Francis turbine with a hydraulic capacity of 178 cfs, manufactured by S. Morgan Smith and rated at 280 hp, and (b) a generator, manufactured by Northwestern Electric Equipment Company and rated at 168 kW; (6) and existing appurtenant facilities.

No changes are being proposed for this subsequent license. The applicant estimates the average annual generation for this project would be 1,448 MWH. The dam and existing project facilities are owned by the applicant.

m. *Purpose of Project:* Project power would be utilized by the applicant for sale to its customers.

n. *This notice also consists of the following standard paragraphs:* B1 and E1.

o. *Available Location of Application:* A copy of the application, as amended and supplemented, is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street, NE., room 3104, Washington, DC 20426, or by calling (202) 208–1371. A copy is also available for inspection and reproduction at Northern States Power Company, 100 North Barstow Street, P.O. Box 8, Eau Claire, WI or by calling (715) 839–2621.

3. a. *Type of Applications:* Subsequent License (see 18 CFR 16.2(e) for definition).

b. *Project Nos.:* 2441–009 & 2508–002.

c. *Date filed:* December 23, 1991.

d. *Applicant:* City of Norwich, Department of Public Utilities.

e. *Name of Projects:* Greenville Dam & Tenth Street Hydro.

f. *Location:* On Shetucket River in New London County, Connecticut.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Richard DesRoches, City of Norwich, Department of Public Utilities, 34 Court House Square, Norwich, Connecticut 06360, (203) 887–2555.

i. *FERC Contact:* Mr. Surender M. Yepuri, P.E., (202) 219–2847.

j. *Deadline Date:* July 29, 1992.

k. *Status of Environmental Analysis:* The applications are ready for environmental analysis at this time—see attached paragraph D6.

1. *Description of Projects:*

(A) Greenville Dam Project: The project as proposed for licensing consists of: (1) The 15-foot-high, 399-foot-long rock filled timber crib dam impounding the 80-acre reservoir; (2) the 13-foot-deep, 70-foot-wide, and 3,200-foot-long power canal; (3) the 28-foot-wide-by 43-foot-long Second Street Powerhouse containing two 400-kW turbine-generator units; (4) the 3200-foot-long, 4.8-kV transmission line; (5) new fishways; and (6) other appurtenant structures. The average annual generation is 3.85 GWh.

(B) Tenth Street Hydro Project: The project as proposed for licensing consists of (1) The 15-foot-deep, 30-foot-wide, and 80-foot-long concrete intake flume; (2) the 23-foot-wide, 45-foot-long powerhouse containing one 1,400-kW turbine-generator unit; (3) the short tailrace which discharges directly into the Shetucket River; (4) the 150-foot-long, 4.8-kV transmission line; and (5) other appurtenant structures. The average annual generation is 4.56 GWh. The applicant is not proposing any changes to the existing project works.

m. *Purpose of Project:* Power generated at the project is delivered to customers within the applicant's service area.

n. *This notice also consists of the following standard paragraphs:* B1 and D6.

o. *Available Locations of Application:* A copy of the application, as amended and supplemented, is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street, NE., room 3104, Washington, DC 20426, or by calling (202) 208–1371. A copy is also available for inspection and reproduction at the applicant's office (see item (h) above).

4a. *Type of Application:* Subsequent Minor License.

b. *Project No.:* 2445–002.

c. *Date Filed:* December 26, 1991.

d. *Applicant:* Vermont Marble Company.

e. *Name of Project:* Center Rutland Project.

f. *Location:* On Otter Creek, Rutland County, Vermont.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. David L. Ferris, Vermont Marble Company, 61 Main Street, Proctor, VT 05765, (802) 459-3311.

i. *FERC Contact:* Michael Dees (202) 219–2807.

j. *Deadline Date: August 6, 1992.*

k. *Status of Environmental Analysis:* This application is not ready for environmental analysis at this time—see attached standard paragraph E.

l. *Description of Project:* The Center Rutland Hydroelectric Project, located on Otter Creek, consists of a hydroelectric generating facility, a dam, an impoundment, and appurtenant facilities. The Vermont Marble Company is not proposing any new development. However, the Applicant is proposing a minimum flow of 79 cubic feet per second (cfs).

The center Rutland Project has an existing total nameplate capacity of 0.275 megawatt (MW) and an average annual generation of about 1,686 megawatt-hour (MWH). Due to the minimum flow proposal, the Applicant estimated the generation would decrease by 152 MWH to an average annual generation of 1,534 MWH.

The project is described in detail as follows:

(1) A concrete and stone masonry gravity dam, totaling about 190 feet long, consists of: (a) a 174-foot-long spillway section, with a height of 14 feet at a crest elevation of 504.8 feet (USGS), topped with 2.3-foot-high wooden flashboards; and (b) a 16-foot-long non-overflow section;

(2) A concrete and marble forebay and intake structure, equipped with (a) a 31-foot-wide by 12-foot-high trashracks with 9/16-inch spacings; (b) a wooden headgate, 6.7 feet wide by 6.5 feet high; and (c) a 6-foot-diameter penstock, about 75 feet long;

(3) A powerhouse, located on the northeast end of the project dam, measuring about 40 feet long by 33 feet wide by 12 feet high, equipped with one horizontal hydroelectric generating unit with (a) a total capacity of 275 kilowatt (kW), (b) a range of hydraulic capacity of 60 to 190 cubic per second (cfs), and (c) a designed head of 28 feet;

(4) An impoundment, about 4,000 feet long, with (a) a surface area of 13 acres (AC); (b) a gross storage capacity of 30 acre-feet (AF); (c) a negligible useable storage capacity; (c) a normal headwater elevation of 507.4 feet (USGS); and (d) a normal tailwater elevation of 477.0 feet (USGS); and

(5) Appurtenant facilities.

m. *Purpose of Project:* The purpose of the project is to generate electric power for use in the applicant's system load which includes residential customers as well as its industrial facilities.

n. *This notice also consists of the following standard paragraphs:* B1 and E1.

o. *Available Location of Application:* A copy of the application, as amended

and supplemented, is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street NE., room 3104, Washington, DC, 20426, or by calling (802) 208–1371. A copy is also available for inspection and reproduction at Vermont Marble Company, 61 Main Street, Proctor, VT, 05765, (202) 459–3311.

5a. *Type of Application:* New Major License.

b. *Project No.:* Project No. 2466–002.

c. *Date Filed:* December 13, 1991.

d. *Applicant:* Appalachian Power Company.

e. *Name of Project:* Niagara.

f. *Location:* The Niagara Project is located on the Roanoke River in Roanoke County, Virginia.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* B.H. Bennett, Assistant Vice President, American Electric Power Service Corporation, 1 Riverside Plaza, Columbus, OH 43215, (614) 223–2930.

i. *FERC Contact:* Hector M. Perez (202) 219–2843.

j. *Comment Date:* August 7, 1992.

k. *Status of Environmental Analysis:* This application is not ready for environmental analysis at this time—see attached paragraph E1.

l. *The project consists of:* (1) A 52-foot-high, 452-foot-long concrete dam; (2) a reservoir of about 85 acres; (3) a powerhouse with an installed capacity of 2,400 kW; (4) a transmission line connection; and (5) other appurtenances.

m. *Purpose of the Project:* Power generated at the project is distributed to the customers of Appalachian Power Company.

n. This notice also consists of standard paragraphs B1 and E1.

o. *Available copies of the application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street, NE., room 3104, Washington, DC 20426 or by calling (202) 208–1371. A copy is also available for inspection and reproduction at the address specified in item h above.

6. a. *Type of Application:* New License.

b. *Project No.:* 2486–002.

c. *Date Filed:* December 23, 1991.

d. *Applicant:* Wisconsin Electric Power Company.

e. *Name of Project:* Pine Hydro Project.

f. *Location:* On the Pine River in Florence County, Wisconsin.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–824(r).

h. *Applicant Contact:* Mr. David K. Porter, Wisconsin Electric Power Company, 231 West Michigan Street, P.O. Box 2046, Milwaukee, WI 53201, (414) 221–2500.

i. *FERC Contact:* Ed Lee (202) 219–2809.

j. *Comment Date:* August 3, 1992.

k. *Status of Environmental Analysis:* This application is not ready for environmental analysis at this time—see attached standard paragraph E1.

l. *Description of Project:* The project as licensed consists of the following: (1) An existing earth dike, 358 feet long, containing a concrete corewall, 86 feet long; (2) an existing reinforced concrete gated spillway section, 124 feet long, containing seven Tainter gates, each 12 feet high by 14 feet long; (3) an existing concrete gravity non-overflow section, 148 feet long; (4) an existing reservoir with a surface area of 180 acres and a total storage volume of approximately 1,540 acre-feet at the normal maximum surface elevation of 11.916 feet NGVD; (5) an existing reinforced concrete canal intake structure, 14 feet long, equipped with slots for stop logs; (6) an existing 1,530 foot long canal, approximately 10 feet deep and 12 feet wide at the bottom, cut into soil and rock, with the first 120 feet rip-rap lined and portions of the downstream end concrete lined; (7) existing penstock headworks consisting of (a) a concrete intake structure, 46 feet long, and (b) two concrete retaining walls, 47 feet long and 32 feet long; (8) two existing 9 foot diameter steel penstocks, each 340 feet long; (9) an existing reinforced concrete, brick and steel frame powerhouse, 50.6 feet long by 58.4 feet wide, containing (a) two vertical shaft Francis turbines with a combined maximum hydraulic capacity of 760 cfs, manufactured by S. Morgan Smith and rated at 3,000 hp each, and (b) two, 3-phase, 60-cycle, vertical shaft generators, manufactured by General Electric and rated at 1,800 kW each, providing a total plant rating of 3,600 kW; and (10) existing appurtenant facilities. No changes are being proposed for this new license. The applicant estimates the average annual generation for this project would be 18.9 GWH. The dam and existing project facilities are owned by the applicant. The existing project would also be subject to Federal takeover under sections 14 and 15 of the Federal Power Act.

m. *Purpose of Project:* Project power would be utilized by the applicant for sale to its customers.

n. *This notice also consists of the following standard paragraphs:* B1 and E1.

o. *Available Location of Application:* A copy of the application, as amended and supplemented, is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street, NE., room 3104, Washington, DC 20426, or by calling (202) 208–1371. A copy is also available for inspection and reproduction at Wisconsin Electric Power Company, 231 West Michigan, room A440, Milwaukee, WI or by calling (414) 221–1413.

7. a. *Type of Application:* Transfer of License.

b. *Project No.:* 3131–021.

c. *Date Filed:* May 22, 1992.

d. *Applicant:* Williams River Electric Corporation SR Hydropower, Inc.

e. *Name of Project:* Brockways Mill Hydroelectric Project.

f. *Location:* on the Williams River, near the town of Rockingham in Windham County, Vermont.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Paul V. Nolan, 6219 North 19th Street, Arlington, VA 22205, (703) 534–5509.

i. *FERC Contact:* Mary Golato (dt) (202) 219–2804.

j. *Comment Date:* August 1, 1992.

k. *Description of Project:* Williams River Electric Corporation proposes to transfer the Brockways Mill Hydroelectric Project No. 3131 to SR Hydropower, Inc. The transferor wants to withdraw from the business of owning and operating hydroelectric projects, and sell the project.

l. *This notice also consists of the following standard paragraphs:* B & C.

8. a. *Type of Application:* Amendment of License/As-Built Exhibit A.

b. *Project No.:* 4885–029.

c. *Date Filed:* September 10, 1990.

d. *Applicant:* Twin Falls Hydro Associates.

e. *Name of Project:* Twin Falls Project.

f. *Location:* On the South Fork Snoqualmie River in the Snohomish River Basin in King County, Washington.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Don Jarrett, Twin Falls Hydro Associates, P.O. Box 1029, North Bend, WA 98045, (206) 888–2551.

i. *FERC Contact:* Paul Shannon, (202) 219–2866.

j. *Comment Date:* August 3, 1992.

k. *Description of Amendment:* Twin Falls Hydro Associates request approval of an as-built exhibit A for the Twin Falls Project. The exhibit A describes as-built project features, some of which

are different than those authorized in the license. In particular, the exhibit A describes that the project's two generators have a total installed capacity of 12,000 kW which is 2,000 kW greater than the authorized capacity. The exhibit A also describes that the total hydraulic capacity for the project's two turbines is 710 cfs. This is 100 cfs greater than the authorized hydraulic capacity.

l. *This notice also consists of the following standard paragraphs*: B,C, and D2.

9 a. *Type of Application:* Major License.

b. *Project No.* 6287–002.

c. *Date filed:* November 8, 1984 (Amended July 23, 1991).

d. *Applicant:* Rainsong Company.

e. *Name of Project:* Lena Creek Project.

f. *Location:* On Lena Creek, tributary to the Hamma Hamma River, in Jefferson and Mason Counties, Washington, near the town of Eldon, within the Olympic National Forest. T25N R4W, section 35 Williamette Meridian.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. William L. Devine, W.L.D. Glacier Energy Company, P.O. Box 68, Maple Falls, WA 98266, (208) 599–2927.

i. *FERC Contact:* Ms. Deborah Frazier-Stutely (202) 219–2842.

j. *Comment Date:* August 3, 1992.

k. *Status of Environmental Analysis:* This application is ready for environmental analysis at this time—see attached paragraph D9.

l. *Description of Project:* The proposed run-of river project would consist of: (1) A 10-foot-high, 120-foot-wide concrete diversion dam at elevation 1,500 feet msl; (2) an intake structure consisting of a trashrack, a sluice gate, and a gate valve; (3) a 42-inch-diameter, 2,300 foot-long partially buried steel pipeline; (4) a 42-inch-diameter, 1,500-foot-long buried steel penstock; (5) a 25-foot-high, 36-foot-long, 36-foot-wide concrete powerhouse containing a single generating unit with an installed capacity of 5,000 kW, operated at a head of 800 feet; (6) a 60-inch-diameter, 150-foot-long tailrace; (7) a 32,280-foot-long, 34.5-kilovolt underground transmission line, tying into an existing line; (8) a 50-foot-long access road to the powerhouse; and (9) related facilities.

The applicant estimates that the average annual energy generation would be 22 million kilowatthours.

This application was originally accepted for filing as of may 3, 1982, the submittal date of the Applicant's originally accepted exemption application in accordance with Snowbird, Ltd. 28 FERC ¶ 61,062 issued July 18, 1984.

m. *Purpose of Project:* Project power would be sold to a local utility.

n. *This notice also consists of the following standard paragraphs:* A4, D9

o. *Available Locations of Applications:* A copy of the application, as amended and supplemented, is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street, NE., room 3104, Washington, DC 20426, or by calling (202) 208–1371. A copy is also available for inspection and reproduction at the applicant's office (see item (h) above).

10 a. *Type of Application:* Preliminary Permit.

b. *Project No.* 11074–000.

c. *Date filed:* January 16, 1991.

d. *Applicant:* Albert Rim Hydroelectric Company.

e. *Name of Project:* Albert Rim Pumped Storage Project.

f. *Location:* On Rabbit Creek and Chewaucan River in Lake County, Oregon, near the town of Lakeview. The project would occupy lands administered by the Bureau of Land Management. T35S, R20E, R21E and R22E; T34S, R22E; T33S, R22E; T32S, R22E; T31S, R22E; T30S, R21E; T29S, R21E; T228S, R21E; T28S, R21E and R20E Willamette Base and Meridian.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact:* Mr. Bart M. O'Keeffe, P.O. Box 60565, Sacramento, CA 95860, (916) 971–3717. Mr. Louis Rosenman, 1725 DeSales St., NW., Suite 800, Washington, DC 20036, (202) 659–6568.

i. *FERC Contact:* Ms. Deborah Frazier-Stutely (202) 219–2842.

j. *Comment Date:* August 3, 1992.

k. *Competing Application:* The boundary for this proposed project overlaps the boundary for Project No. 10875 for which a preliminary permit was issued to the applicant on June 29, 1990 (see 51 FERC ¶ 62,338). Competing applications will only be accepted for project proposals that are not in conflict with the issued permit for Project No. 10875.

1. *Description of Project:* The proposed pumped storage project would consist of: (1) The existing 300-foot-high, 5,700-foot-long dam; (2) Rabbit Creek reservoir with a surface area of 830 acres with a storage capacity of 65,500 acre-feet and a water surface elevation of 5,760 feet msl, to be utilized as the upper reservoir; (3) two 36-foot-diameter, 1,575-foot-high power shafts; (4) two 1,600-foot-high surge shafts; (5) a 30-foot-diameter, 1,620-foot-high access shaft with elevators; (6) an underground powerhouse containing eight pump-turbines with a combined installed capacity of 2,000 MW, producing an estimated average annual energy output of 3,500,000 MWh; (7) two 36-foot-diameter, 8,800-foot-long tailrace tunnels; (8) the existing 20-foot high, 200-foot-long concrete Chewaucan Dam, to be modified; (9) the existing 35,000 acre Lake Abert with a storage capacity of 1,050,000 acre-feet with a surface elevation of 4,255 feet msl, to be utilized as the lower reservoir; (9) a waterfowl pool with a surface area of 1,200 acre with a storage capacity of 30,000 acre-feet and a surface elevation of 4,275 feet msl; (10) a 2,000 acre waterfowl refuge; (11) a 23-mile-long gravel access road; (12) one 30-foot-diameter, 8,400-foot-long vehicle access tunnel; (13) a 43-mile-long, 500-kV AC transmission line tying into an existing Pacific Power and Light line; (14) a 3½-mile-long, 500 kV DC transmission line tying into an existing Bonneville Power Administration line; and (15) a converter station.

The application estimates the cost of the studies to be conducted under the preliminary permit would be $2,000,000. No new roads will be needed for the purpose of conducting these studies.

The applicant proposal is to use the lower portion of Lake Abert. Lake Abert will be divided by two 30 feet high dikes. Dike No. 1 would be 12,500 feet long and Dike No. 2 would be 19,000 feet long.

l. *Purpose of Project:* Project power would be sold to a local utility.

m. *This notice also consists of the following standard paragraphs:* A5, A7, A9, A10, B, C, and D2.

11. a. *Type of Application:* Exemption from Licensing.

b. *Project No.:* 10675–001.

c. *Date Filed:* December 6, 1989.

d. *Applicant:* Western Massachusetts Electric Company.

e. *Name of Project:* Dwight Project.

f. *Location:* On the Chicopee River, Hampden County, Massachusetts.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)—825(r)1.

h. *Applicant Contact:* Mr. Richard W. Thomas, Northeast Utilities Service Company, P.O. Box 270, Hartford, CT 06141–0270, (203) 665–3719.

i. *FERC Contact:* Mary Golato (202) 219–2804.

j. *Deadline Date:* August 6, 1992.

k. *Status of Environmental Analysis:* This application is ready for environmental analysis at this time—see attached paragraph D4.

l. *Description of Project:* The proposed project would consist of the following facilities: (1) An existing 306-foot-long and 15-foot-high stone masonry overflow spillway dam; (2) an existing reservoir with a surface area of 32 acres, a storage capacity of approximately 70-acre-feet, and a normal surface elevation of 78.8 feet mean sea level; (3) an existing 3,000-foot-long by 80-foot power canal; (4) three existing 7-foot-diamter and 168-foot-long penstocks; (5) an existing powerhouse containing three existing turbine-generating units at a total installed capacity of 1,440 kilowatts (kW); (6) an existing 3.2-mile-long transmission line; and (7) appurtenant facilities. In addition to the existing works, the applicant proposes to install a minimum flow unit with a rated capacity of 210 kW, bringing the total station capacity to 1,650 kW. The applicant estimates that the average annual generation is approximately 8.5 gigawatthours. The project was found jurisdictional under UL 88–29–000.

m. *Purpose of Project:* All project energy generated would be utilized by the applicant for sale to its customers.

n. *This notice also consists of the following standard paragraphs:* A2, A9, B1, and D4.

o. *Available Locations of Application:* A copy of the application, as amended and supplemented, is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street NE., room 3104, Washington, DC 20426, or by calling (202) 219–1371. A copy is also available for inspection and reproduction at Mr. Richard W. Thomas, Northeast Service Company, P.O. Box 270, Hartford, CT 06141–0270 (203) 665–3719.

12 a. *Type of Application:* Exemption from Licensing.

b. *Project No.:* 10676–001.

c. *Date Filed:* December 6, 1989.

d. *Applicant:* Western Massachusetts Electric Company.

e. *Name of Project:* Red Bridge Project.

f. *Location:* On the Chicopee River, Hampden County, Massachusetts.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)—825(r).

h. *Applicant Contact:* Mr. Richard W. Thomas, Northeast Utilities Service Company, P.O. Box 270, Hartford, CT 06141–0270, (203) 665–3719.

i. *FERC Contact:* Mary Golato (tag) (202) 219–2804.

j. *Comment Date:* August 6, 1992.

k. *Status of Environmental Analysis:* This application is ready for environmental analysis at this time—see attached paragraph D4.

l. *Description of Project:* The proposed project would consist of the following facilities: (1) An existing 827-foot-long and 51-foot-high dam; (2) an existing reservoir with a storage capacity of 530 acre-foot, and a normal maximum surface elevation of 272.3 feet mean sea level; (3) an existing power canal; (4) an existing 13-foot-diameter by100-foot-long penstock; (5) an existing powerhouse containing two existing turbine-generating units for a total installed capacity of 3,600 kilowatts (kW); (6) an existing 4.8-mile-long transmission line; and (7) appurtenant facilities. In addition to the existing works, the applicant proposes to add a minimum flow unit with a rated capacity of 695 kW, bringing the total capacity to 4,295 kW. The applicant estimates that the average annual generation is approximately 19 gigawatthours. The project was found jurisdictional under UL 88–33–000.

m. *Purpose of Project:* All project energy generated would be utilized by the applicant for sale to its customers.

n. *This notice also consists of the following standard paragraphs:* A2, A9, B1, and D4.

o. *Available Locations of Application:* A copy of the application, as amended and supplemented, is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street, NE., room 3104, Washington, DC 20426, or by calling (202) 219–1371. A copy is also available for inspection and reproduction at Mr. Richard W. Thomas, Northeast Service Company, P.O. Box 270, Hartford, CT 06141–0270 (203) 665–3719.

13 a. *Type of Application:* Exemption from Licensing.

b. *Project No.* 10677–001.

c. *Date Filed:* December 6, 1992.

d. *Applicant:* Western Massachusetts Electric Company.

e. *Name of Project:* Putts Project.

f. *Location:* On the Chicopee River, Hampden County, Massachusetts.

g. *Filed Pursuant to:* Federal Power Act U.S.C. 791 (a)–825(r).

h. *Applicant Contact:* Mr. Richard W. Thomas, Northeast Utilities Service Company, P.O. Box 270, Hartford, CT 06141–0270, (203) 665–3719.

i. *FERC Contact:* Mary Golato (tag) (202) 219–2804.

j. *Deadline Date:* August 6, 1992.

k. *Status of Environmental Analysis:* This application is ready for environmental analysis at this time—see attached paragraph D4.

l. *Description of Project:* The proposed project would consist of the following facilities: (1) An existing concrete gravity overflow dam about 200 feet long and 22 feet high; (2) an existing reservoir with a surface area of about 65 acres and a storage capacity of 323 acre-feet; (3) an existing headgate structure at the north abutment; (4) an existing powerhouse containing two existing turbine-generator units at a total installed capacity of 3,200 kilowatts (kW); (5) an existing 11.5-kilovolt underground cable; and (6) appurtenant facilities. In addition to the existing works, the applicant proposes to install a minimum flow unit with a rated capacity of 370 kW, bringing the total station capacity to 3,570 kW. The applicant estimates that the average annual generation is 15,397 megawatthours. The project was found jurisdictional under UL 88–34–000.

m. *Purpose of Project:* All project energy generated would be utilized by the applicant for sale to its customers.

n. *This notice also consists of the following standard paragraphs:* A2, A9, B1, and D4.

o. *Available Locations of Application:* A copy of the application, as amended and supplemented, is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street NE., room 3104, Washington, DC 20426, or by calling (202) 219–1371. A copy is also available for inspection and reproduction at Mr. Richard W. Thomas, Northeast Service Company, P.O. Box 270, Hartford, CT 06141–0270 (203) 665–3179.

14 a. *Type of Application:* Exemption from Licensing.

b. *Project No.* 10678–001

c. *Date Filed:* December 6, 1989.

d. *Applicant:* Western Massachusetts Electric Company.

e. *Name of Project:* Indian Orchard Project.

f. *Location:* On the Chicopee River, Hampden County, Massachusetts.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791 (a)–825(r).

h. *Applicant Contact:* Mr. Richard W. Thomas, Northeast Utilities Service Company, P.O. Box 270, Hartford, CT 06141–0270, (203) 665–3719.

i. *FERC Contact:* Mary Golato (tag) (202) 219–2804.

j. *Deadline Date:* August 6, 1992.

k. *Status of Environmental Analysis:* This application is ready for environmental analysis at this time—see attached paragraph D4.

l. *Description of Project:* The proposed project would consist of the following facilities: (1) An existing concrete gravity overflow dam about 402 feet long and 22 feet high; (2) an existing reservoir with a surface area of about 74 acres, and a storage capacity of about 70 acre-feet, and a normal maximum

surface elevation of 161.0 feet mean sea level; (3) an existing power canal; (4) an existing steel penstock 190 feet long and 11 feet in diameter, and another 160 feet long and 16 feet in diameter; (5) an existing powerhouse containing two existing turbine-generator units totalling 3,700 kilowatts (kW); (6) an existing 14.25-kilovolt transmission line; and (7) appurtenant facilities. In addition to the existing works, the applicant also proposes to install a minimum flow unit with a rated capacity of 430 kW, bringing the total station capacity to 4,130 kW. The applicant estimates that the average annual generation is 12,821 megawatthours. The project was found jurisdictional under UL 88–35–000.

m. *Purpose of Project:* All project energy generated would be utilized by the applicant for sale to its customers.

n. *This notice also consists of the following standard paragraphs:* A2, A9, B1, and D4.

o. *Available Locations of Application:* A copy of the application, as amended and supplemented, is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street NE., room 3104, Washington, DC 20426, or by calling (202) 219–1371. A copy is also available for inspection and reproduction at Mr. Richard W. Thomas, Northeast Service Company, P.O. Box 270, Hartford, CT 06141–0270 (203) 665–3719.

15 a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11260–000.

c. *Date filed:* February 21, 1992, and revised May 11, 1992.

d. *Applicant:* Town of Hope Mills.

e. *Name of Project:* Hope Mills #1.

f. *Location:* On the Little Rockfish Creek, Town of Hope Mills, Rockfish Township, Cumberland County, North Carolina.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791 (a)–825(r).

h. *Applicant Contact:* Mr. Wilbur Dees, 3701 South Main Street, Hope Mills, NC 28348, (919) 423–4315.

i. *FERC Contact:* Charles T. Raabe (dt) (202) 219–2811.

j. *Comment Date:* August 8, 1992.

k. *Description of Project:* The existing inoperative project would consist of: (1) A 500-foot-long, 33-foot-high earthen dam having an 80-foot-long, tainter-gate-controlled concrete spillway near its right abutment; (2) a reservoir having an 85-acre surface area and a 1,000 acre-foot storage capacity at normal surface elevation 105.0 feet MSL; (3) an intake structure near the dam's left abutment; (4) a 211-foot-long concrete-lined canal; (5) a 48-foot-long steel penstock; (6) a powerhouse containing a 530–HP turbine operated at a 23-foot-head and at a flow of 125 cfs; (7) a 150-foot-long, 40-foot-wide concrete-lined tailrace; and (8) appurtenant facilities. Applicant would rehabilitate the existing facilities, construct a new powerhouse containing a 250-kW generator, and would install a 50-foot-long, 23,000-v transmission line. Applicant estimates that the average annual generation would be 1.239–MW and that the cost of the studies under the permit would be $25,000. Project energy would be sold to Carolina Power and Light Company. The existing facilities are owned by the applicant.

l. *This notice also consists of the following standard paragraphs:* A5, A7, A9, A10, B, C and D2.

16 a. *Type of Application:* Preliminary Print.

b. *Project No.:* 11282–000.

c. *Date Filed:* April 20, 1992.

d. *Applicant:* Summit Hydropower.

e. *Name of Project:* Gainer Dam.

f. *Location:* On the North Branch Pawtuxet River, Town of Scituate, Providence County, Rhode Island.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791 (a)–825(r).

h. *Applicant Contact:* Richard MacKowiak, 92 Rocky Hill Road, Woodstock, CT 06281, (203) 974–1803.

i. *FERC Contact:* Charles T. Raabe (tag) (202) 219–2811.

j. *Comment Date:* August 3, 1992.

k. *Description of Project:* The existing inoperative project would consist of: (1) A 3,500-foot-long earthen dam having a 250-foot-long overflow-type spillway at its right (southwest) abutment; (2) a reservoir, known as the Scituate Reservoir, having a 2,893-acre surface area and a 108,374 acre-foot gross storage capacity at spillway crest elevation 284 feet MSL; (3) an intake structure; (4) a powerhouse containing a rehabilitated 1,500-kW generating unit operated at an 80-foot-net head and at a flow of 300 cfs; (5) a 400-foot-long tailrace tunnel and a 700-foot-long excavated tailrace; (6) a 400-foot-long underground, 2.3-kV transmission line; (7) a 2.3/23.-kV substation; (8) a 4,000-foot-long, 23.-kV transmission line; and (9) appurtenant facilities.

The primary purpose for the existing facilities, owned by the Providence Water Supply Board (PWSB), is water supply for the City of Providence. Applicant estimates that the project average annual generation would be 3,000,000 kWh and that the cost of the studies under the permit would be $41,000. Project energy would be sold to Narragansett Electric or to PWSB.

l. *This notice also consists of the following standard paragraphs:* A5, A7, A9, A10, B, C, and D2.

17 a. *Type of Application:* 5–MW Exemption.

b. *Project No.:* 11291–000.

c. *Date filed:* May 18, 1992.

d. *Applicant:* Star Mill Falls Campground, Inc.

e. *Name of Project:* Star Milling.

f. *Location:* On the Fawn River In LaGrange County, Indiana.

g. *Filed Pursuant to:* Energy Security Act of 1980, Federal Power Act 16 U.S.C. 791 (a)–825(r).

h. *Applicant Contact:* Clyde A. Wilson, 0505 W. 700 N, Howe, IN 46746, (219) 562–3755.

i. *FERC Contact:* Charles T. Raabe (dt) (202) 219–2811.

j. *Deadline Date:* July 17, 1992.

k. *Description of Project:* The existing, operating project would consist of: (1) A 350-foot-long earthen dam having a concrete spillway; (2) a brick powerhouse containing two generating units with a total installed capacity of 312–KVA; (3) a reservoir having a 38-acre surface area and 76 acre-foot storage capacity; (4) a tailrace; and (5) appurtenant facilities. The existing facilities are owned by the applicant.

l. Pursuant to § 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merits, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days after the application is filed and serve a copy of the request on the applicant.

Standard Paragraphs

A2. *Development Application*—Any qualified applicant desiring to file a competing application must submit to the Commission, on or before the specified deadline date for the particular application, a competing development application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing development application no later than 120 days after the specified deadline date for the particular application. Applications for preliminary permits will not be accepted in response to this notice.

A4. *Development Application*—Public notice of the filing of the initial development application, which has already been given, established the due date for filing competing applications or notices of intent. Under the Commission's regulations, any competing development application

must be filed in response to and in compliance with public notice of the initial development application. No competing applications or notices of intent may be filed in response to this notice.

A5. *Preliminary Permit*—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) (1) and (9) and 4.36.

A7. *Preliminary Permit*—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) (1) and (9) and 4.36.

A9. *Notice of Intent*—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

A10. *Proposed Scope of Studies under Permit*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

B. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

B1. *Protests or Motions to Intervene*—Anyone may submit a protest or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, and 385.214. In determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified deadline date for the particular application.

C. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, Room 1027, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. *Agency Comments*—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D4. *Filing and Service of Responsive Documents*—The application is ready for environmental analysis at this time, and the Commission is requesting comments, reply comments, recommendations, terms and conditions, and prescriptions.

The Commission directs, pursuant to § 4.34(b) of the regulations (see Order No. 533 issued May 8, 1991, 56 FR 23108, May 20, 1991) that all comments, recommendations, terms and conditions and prescriptions concerning the application be filed with the Commission within 60 days from the issuance date of this notice. (August 18, 1992 for Project Nos. 10675-001 through 10678-001). All reply comments must be filed with the Commission within 105 days from the date of this notice. (October 2, 1992 for the above-mentioned projects).

Anyone may obtain an extension of time for these deadlines from the Commission only upon a showing of good cause or extraordinary circumstances in accordance with 18 CFR 385.2008.

All filings must (1) bear in all capital letters the title "PROTEST," "MOTION TO INTERVENE," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "COMMENTS," "REPLY COMMENTS," "RECOMMENDATIONS," "TERMS AND CONDITIONS," or "PRESCRIPTIONS;" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, room 1027, at the above address. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified

in the particular application. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

D6. *Filing and Service of Responsive Documents*—The application is ready for environmental analysis at this time, and the Commission is requesting comments, reply comments, recommendations, terms and conditions, and prescriptions.

The Commission directs, pursuant to § 4.34(b) of the regulations (see Order No. 533 issued May 8, 1991, 56 FR 23108, May 20, 1991) that all comments, recommendations, terms and conditions and prescriptions concerning the application be filed with the Commission within 60 days from the issuance date of this notice. (July 27, 1992 for P–2441–009 and P–2508–002). All reply comments must be filed with the Commission within 105 days from the date of this notice. (September 9, 1992 for the above-mentioned projects).

Anyone may obtain an extension of time for these deadlines from the Commission only upon a showing of good cause or extraordinary circumstances in accordance with 18 CFR 385.2008.

All Filings must (1) bear in all capital letters the title "PROTEST," "MOTION TO INTERVENE," "COMMENTS," "REPLY COMMENTS," "RECOMMENDATIONS," "TERMS AND CONDITIONS," or "PRESCRIPTIONS;" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, Room 1027, at the above address. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

D9. *Filing and Service of Responsive Documents*—The application is ready for environmental analysis at this time, and the Commission is requesting comments, reply comments, recommendations, terms and conditions, and prescriptions.

The Commission directs, pursuant to § 4.34(b) of the regulations (see Order No. 533 issued May 8, 1991, 56 FR 23108, May 20, 1991) that all comments, recommendations, terms and conditions and prescriptions concerning the application be filed with the Commission within 60 days from the issuance date of this notice. (August 3, 1992 for P–6287–002). All reply comments must be filed with the Commission within 105 days from the date of this notice. (September 17, 1992 for P–6287–002).

Anyone may obtain an extension of time for these deadlines from the Commission only upon a showing of good cause or extraordinary circumstances in accordance with 18 CFR 385.2008.

All filings must (1) bear in all capital letters the title "COMMENTS," "REPLY COMMENTS," "RECOMMENDATIONS," "TERMS AND CONDITIONS," or "PRESCRIPTIONS;" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, room 1027, at the above address. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b), and 385.2010.

E1. *Filing and Service of Responsive Documents*—The application is not ready for environmental analysis at this time; therefore, the Commission is not now requesting comments, recommendations, terms and conditions, or prescriptions.

When the application is ready for environmental analysis, the Commission will issue a public notice requesting comments, recommendations, terms and conditions, or prescriptions.

All filings must (1) bear in all capital letters the title "PROTEST" or "MOTION TO INTERVENE;" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. Agencies may obtain copies of the application directly from the applicant. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, room 1027, at the above address. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application.

Dated: June 22, 1992, Washington, DC

Lois D. Cashell,

Secretary.

[FR Doc. 92–15110 Filed 6–26–92; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. ER91–620–000 and EL92–31–000]

Central Maine Power Co.; Order Directing Summary Disposition, Accepting for Filing and Suspending Rates as Modified, Initiating Investigation, Denying Waiver of Notice, Establishing Hearing Procedures and Refund Effective Date, and Clarifying Fuel Adjustment Clause Requirements With Respect to Fb Component

Issued June 22, 1992.

Before Commissioners: Martin L. Allday, Chairman; Charles A. Trabandt, Elizabeth Anne Moler, Jerry J. Langdon and Branko Terzic.

On August 30, 1991, Central Maine Power Company (Central Maine) filed a firm power rate increase applicable to three wholesale customers [1] intended to track rate changes approved by the Maine Public Service Commission for Central Maine's retail customers.[2] Central Maine claimed that the revised rates produced an increase of $382,505 based on a calendar year 1989 test year. Central Maine stated that $109,000 of the increase was for a so-called "attrition allowance" (to reflect erosion in the rate of return resulting from expenses increasing more rapidly than revenues after the end of its 1989 test year). Central Maine requested waiver of the sixty-day prior notice requirement, 18 CFR 35.3(d) (1991), to permit an effective date of October 1, 1991. In support of its request for waiver, Central Maine stated that its rate increase was justified and a failure to grant the requested waiver would penalize Central Maine.

On October 29, 1991, the Director, Division of Applications, Office of Electric Power Regulation (Director), issued a deficiency letter. Among other things, the letter directed Central Maine to eliminate the attrition allowance consistent with Commission precedent,[3] to revise its base cost of fuel to reflect only those test year costs eligible for fuel clause recovery under § 35.14(a)(2) of the Commission's regulations, and to provide revenue data for the test year.[4]

On January 13, 1992, Central Maine filed a response to the deficiency letter. Central Maine eliminated the attrition allowance and revised the base cost of fuel. Central Maine provided present revenue data for the test year, but did not provide proposed revenue data which would support its proposed rates. While the attrition allowance which Central Maine had eliminated represented $109,000 of the rate increase, Central Maine claimed that its revised rates would now produce a rate increase of $352,546, only $30,000 less than the increase it had claimed was produced by its original proposal. Central Maine claimed that the difference was caused by the Director's directive to update the base cost of fuel which, according to Central Maine, increased its rates by $96,000. Central Maine also renewed its request for waiver of notice to permit an October 1, 1991 effective date. In support, Central Maine argued that the deficiency letter primarily requested clarification and corrections to a cost study although Central Maine was not obligated to submit a cost study under the Commission's abbreviated filing requirements. *See* 18 CFR 35.13(a)(2) (1991).

On February 25, 1992, Central Maine amended its response to reinstate the base cost of fuel it had included in its original submittal.[5] Central Maine stated that the Customers requested that it reinstate the original base because the revision directed by the Director produced an additional rate increase of $96,000. Central Maine also asserted that, in *Boston Edison Company*, 8 FERC ¶ 63,007 at 65,110 (1977), *aff'd*, Opinion No. 53, 8 FERC ¶ 61,077 at 61,278–79, *reh'g denied*, Opinion No. 53–A, 9 FERC ¶ 61,002 (1979), the Commission rejected a proposal by the Commission's trial staff to require the company to increase the base cost of fuel to reflect test year fuel costs. Central Maine claimed that its proposed rates, as revised in the February 25, 1992 submittal, produce a rate increase of $256,133. Although Central Maine filed the aforementioned data, Central Maine again failed to provide any proposed revenue data which would support its proposed rates.

On April 10, 1992, the Director issued a second deficiency letter directing Central Maine to provide proposed revenue data for its proposed rates.

On April 23, 1992, Central Maine filed the proposed revenue data. Central Maine again requested waiver of notice to permit an October 1, 1991 effective date.

Notices of Filings and Responses

Notices of the filings were published in the **Federal Register**,[6] with comments, protests or interventions due on or before May 13, 1992. On January 30, 1992, the Customers filed a motion to intervene. The Customers oppose the revision to the base cost of fuel reflected in Central Maine's January 13, 1992 submittal because, they claim, it will increase rates by $96,000 per year. The customers also request that Central Maine's request for waiver of notice be rejected and that a prospective effective date be established. The Customers claim that a retroactive date would pose a hardship.

Discussion

1. Interventions

Under Rule 214 of the Commission's Rules of Practice and Procedure,[7] the timely, unopposed motion to intervene serves to make the Customers parties to this proceeding.

2. Fuel Clause Base and Clarification of Fuel Adjustment Clause Requirements With Respect to Fb Component

The Director directed Central Maine to revise the base cost of fuel to reflect its test year fuel expenses. At first, Central Maine did so, but it later filed revised rates to reinstate its existing base. In support, Central Maine argues that, in *Boston Edison, supra*, the Commission rejected a trial staff proposal to revise the base cost of fuel to reflect test year fuel costs. Central Maine also states that, if it were to revise its base cost of fuel to reflect test year fuel expenses, the revised rates would produce an additional increase of $96,000.[8]

Section 35.14(a)(1) of the regulations provides:

The fuel clause shall be of the form that provides for periodic adjustments per kWh of sales equal to the difference between the fuel and purchased economic power costs per kWh of sales in the base period and in the current period:

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[1] The three wholesale customers are: Kennebunk Light and Power District, Madison Electric Works and Fox Island Electric Cooperative, Inc. (collectively, Customers).

[2] Central Maine also proposed to continue collecting purchased power costs from qualifying facilities (QF) through its fuel adjustment clause in its rates to the wholesale customers.

In Docket No. ER87–611–000, Central Maine was granted waiver of § 35.14 of the Commission's regulations, 18 CFR 35.14 (1991), to permit recovery of its QF purchased power expenses through the fuel adjustment clause. The letter order in Docket No. ER87–61–000 permitted Central Maine to recover QF costs in this manner because Central Maine demonstrated that its QF expenses were significant and sufficiently volatile. *See, e.g., Oklahoma Municipal Power Authority* v. *Public Service Company of Oklahoma*, 56 FERC ¶ 61,028 at 61,108 & n.9 (1991).

In the instant docket, Central Maine has provided current information that indicates that its QF expenses remain significant and sufficiently volatile. Therefore, we will allow Central Maine to continue to pass through QF purchased power expenses through its fuel adjustment clause.

[3] *See, e.g.*, Mississippi Power and Light Company, 18 FERC ¶ 61,088 at 61,160 (1982).

[4] While Central Maine provided revenue data for the twelve months before and after the requested October 1, 1991 effective date, no revenue data were provided for its proposed rate increase. As a consequence, the Director was unable to confirm whether the proposed rates recovered Central Maine's claimed revenue requirement.

[5] Central Maine's August 30, 1991 submittal contained the existing base cost of fuel of 10.4521 mills/kWh. In its January 13, 1992 response to the Director's deficiency letter, Central Maine revised the base to 32.9304 mills/kWh to reflect all of its test year expenses eligible for fuel clause recovery (including the QF expenses eligible for fuel clause recovery pursuant to Central Maine's existing waiver, *see supra* note 2.). In the February 25, 1992 filing, Central Maine reinstated the base of 10.4521 mills/kWh.

[6] *E.g.*, 57 FR 19611 (1992).

[7] 18 CFR 385.214 (1991).

[8] As discussed *infra* note 20, Central Maine is incorrect. A change in the base cost of fuel will not increase the total revenue requirement.

Adjustment Factor=Fm/Sm-Fb/Sb Where: F is the expense of fossil and nuclear fuel and purchased economic power in the base (b) and current (m) periods; and S is the kWh sales in the base and current periods, all as defined below.[9]

Section 35.14(a)(6) of the regulations, in turn, provides:

> The cost of fossil fuel shall include no items other than those listed in Account 151 of the Commission's Uniform System of Accounts for Public Utilities and Licensees. The cost of nuclear fuel shall be that as shown in Account 518, except that if Account 518 also contains any expense for fossil fuel which has already been included in the cost of fossil fuel, it shall be deducted from this account. (Paragraph C of Account 518 includes the cost of other fuels used for ancillary steam facilities.)[10]

In a series of cases addressing the fuel adjustment clause regulation, we have stated that the cost of fuel included in a fuel adjustment clause can include (for fossil fuel) no costs other than those listed in Account 151 of the Uniform System of Accounts, *i.e*, it can include no costs other than those eligible for fuel clause recovery under § 35.14 of the regulations.[11] However, we have never defined what is the "base period" for purposes of determining what is the base period cost of fuel. We therefore take this opportunity to interpret our fuel adjustment clause regulation by defining what is the "base period."

The Commission's evaluation of a utility's rates and its determination of what rates are just and reasonable are typically done by comparison to a utility's cost of providing service during a period of time known as a "test period."[12]

Consequently, we believe it appropriate that, the base period be defined as the test period.[13] Not only does this treat fuel costs similarly to all other costs,[14] but this also is consistent with the purpose of our fuel adjustment clause regulation—which is to allow for recovery in rates of *changes* in fuel costs without the necessity of successive rate filings.[15]

Insofar as Central Maine's filing at issue here is concerned, a change in the base period cost of fuel does not affect the revenue requirement,[16] and therefore requiring that Central Maine's base period cost of fuel be updated will have no adverse effect on either Central Maine or its ratepayers. Accordingly, Central Maine's proposal to leave unchanged its pre-existing base period cost of fuel is denied.

As to the *Boston Edison* case cited by Central Maine, in particular, the Commission summarily affirmed the judge's decision that there was no reason to change the base period cost of fuel "in the proceeding."[17] Moreover, it is apparent that the judge's decision in that proceeding was influenced by a concern that the company might underrecover its costs if the base period cost of fuel, Fb, were modified because a corresponding adjustment to the base rates might be improper. These considerations are not present here.

3. Rates Designed to Reflect a Revenue Requirement Higher Than That Supported by Central Maine

In its April 23, 1992 submittal, Central Maine provided proposed revenue data and the data indicate that its proposed rates filed on January 13, 1992 (*i.e.*, reflecting the updated base cost of fuel) result in test year revenues of $6,977,875. Central Maine's cost study supports a revenue requirement of $6,682,921. Thus, Central Maine's rates are designed to recover $294,954 more than its costs. Consistent with *Potomac Edison Company*, 15 FERC ¶61,033 at 61,056 (1981), and *Empire District Electric Company*, 19 FERC ¶61,303 at 61,959 (1982), Central Maine cannot propose a rate that exceeds the revenue requirement reflected in its own cost-of-service. Central Maine is therefore directed to reduce its proposed rated by $294,954 so that its proposed rates do not exceed its revenue requirement.

4. Lagging Fuel Clause

Central Maine's fuel clause defines the monthly fuel adjustment factor as the cost of fuel in the current month. When Central Maine submitted its proposed revenue data on April 23, 1992, Central Maine explained that it ignores this definition and, in practice, computes the monthly fuel clause factor using fuel costs for the prior month. While a so-called "lagging" fuel clause of this type is common in the industry, Central Maine's rate schedule fails to reflect

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[9] 18 CFR 35.14(a)(1) (1991).

[10] 18 CFR 35.14(a)(6) (1991).

[11] *E.g.*, Central Illinois Public Service Company, 58 FERC ¶ 61,166 at 61,577–78, *reh'g denied*, 59 FERC ¶61,219 (1992); Illinois Power Company, 52 FERC ¶61,162 at 61, 621–25 (1990); *accord*, Cities and Villages of Bangor *et al.* v. FERC, 922 F.2d 861, 862–63 (D.C. Cir. 1991); Minnesota Power & Light Company v. FERC, 852 F.2d 1070, 1072–73 (8th Cir. 1988); *see also* Kansas City Power and Light Company, Opinion No. 348, 51 FERC ¶61,285 (1990) (fuel clause should reflect the cost of providing current service).

[12] *E.g.*, Northeast Utilities Service Company, 52 FERC ¶61,336 at 62,317 (1990), *rev'd in part on other grounds*, City of Holyoke Gas & Electric Department v. FERC No. 90–1565 (D.C. Cir. Jan. 28, 1992); Metropolitan Edison Company, Opinion No. 304, 44 FERC ¶61,503 at 61,146 (1988); Delmarva Power and Light Company, Opinion No. 262, 38 FERC ¶61,098 at 61,257 (187), *reh'g denied*, 43 FERC ¶61,520 (1988); Ohio Edison Company, Opinion No. 170, 23 FERC ¶61,344 at 61,749 (1983); *accord, e.g.*, Delmarva Power & Light Company v. *FERC, 770 F.2d 1131, 1132, 1138–39 (D.C. Cir. 1985); NEPCO Municipal Rate Committee* v. *FERC, 668 F.2d 1327, 1338–39 (D.C. Cir. 1981), cert. denied*, 457 U.S. 1117 (1982); Indiana Municipal Electric Association v. *FERC, 629 F.2d 480, 482–83 (D.C. Cir. 1980). We add that, while we typically have used costs as a basis for setting rates, we do not have to do so, and that we have accepted rates that are instead market-based. E.g.*, Entergy Services, Inc., 58 FERC ¶61,234 at 61,752–53 (1992), *reh'g pending*.

Indeed when a utility files a change in rates it files updated cost of service data reflecting current costs. *See* 18 CFR 35.13 (1991); *see also* Arkansas Power & Light Company, 29 FERC ¶61,053 at 61,117 (1984). There is no reason why fuel costs should be accorded different treatment.

[13] As to the relationship between this determination and our earlier order in *Louisiana Power & Light Company*, 57 FERC ¶ 61,101 (1991), discussing how refunds are to be calculated when violations are found, we reaffirm what we stated in that order:

> As a general matter, if a fuel adjustment clause is properly developed, no ineligible costs would be included in the Fb component. In that situation, if a utility recovered ineligible costs through its fuel clause, the amount to be refunded would be the amount of ineligible costs included in the current monthly cost of fuel component Fm. However, there may be situations * * * where such costs have been included in Fb and in turn, recovered through base rates. We will allow a utility to show that such costs have been included in Fb (and reflected in base rates) and thereby limit its refund liability to the difference between the amounts of such costs included in Fm and such costs included in Fb, plus interest. The utility bears the burden of proving the amount of ineligible costs included in Fb. If it fails to do so, refunds will be ordered as if all ineligible costs were included in Fm only. We note that a showing may be sustained only if either: (a) There is a consensus among the parties regarding the ineligible costs included in Fb; or (b) the originally filed cost support from the utility's application that established Fb is sufficiently clear regarding the level of ineligible costs included in Fb.

Id. at 61,386 n.49.

[14] *See supra* note 12.

[15] *See, e.g.*, Fuel Adjustment Clauses in Wholesale Rate Schedules, 52 FPC 1304, 1305 (1974) ("the purpose of this fuel adjustment clause is to keep the utilities whole with regard to changes in the fuel costs per Kwh sold"); *accord*, Wholesale Rate Schedules—Fuel Adjustment Clauses, Notice of Proposed Rulemaking, 39 FR 28910, 28910 (1974) (proposed fuel adjustment clause rate adjustment "will be based on the difference in fuel cost per Kwh generated by fossil and nuclear fuel sources for the current period from the cost of fuel in a base period"); Wholesale Rate Schedules—Fuel Adjustment Clauses, Notice of Proposed Rulemaking, 38 FR 17253, 17253 (1973) (using language almost identical to 1974 notice of proposed rulemaking); *see also* 18 CFR 35.14(a)(9) (1991) (rate filings containing proposed new fuel adjustment clause or change in existing fuel adjustment clause shall include "detailed cost support for the base cost of fuel" and "[f]ull cost of service data unless the utility has had the rate approved by the Commission within a year * * *").

[16] *See infra* note 20.

[17] 8 FERC at 61,278–79 (summarily affirming 8 FERC at 65,110).

the rate it is charging. Central Maine is directed to revise the fuel clause accordingly.

5. Fuel Synchronization

The Commission requires that test year fuel revenues and costs be synchronized.[18] That is, the proposed test year fuel revenues should recover test year fuel costs. Central Maine has failed to synchronize its fuel costs and revenues and, therefore summary disposition is appropriate. This summary adjustment will require Central Maine to reduct its proposed rates by an additional $57,515.

6. Suspension, Hearing, and Investigation

Our preliminary analysis of Central Maine's proposed rates, as amended to reflect the summary dispositions ordered above, indicates that the proposed rates have not been shown to be just and reasonable, and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept Central Maine's proposed rates for filing, as amended to reflect the summary dispositions ordered above, suspend them, and set them for hearing as ordered below.

In *West Texas Utilities Company*, 18 FERC ¶61,189 (1982), we explained that where our preliminary review indicates that proposed rates may be unjust and unreasonable, and may be substantially excessive, as defined in *West Texas*, we would generally impose a maximum suspension. Since our preliminary analysis indicates that the proposed rates, even reflecting the summary dispositions ordered above, may produce substantially excessive revenues, we will suspend the proposed rates for five months. Accordingly, we will accept Central Maine's proposed rates for filing, as modified to reflect the summary dispositions ordered above, suspend them for five months to become effective on November 23, 1992, subject to refund, and set them for hearing. As discussed in more detail below, we will deny Central Maine's request for waiver of notice.

Our preliminary analysis of Central Maine's proposed rates, as amended to reflect the summary dispositions ordered above, suggests not only that the proposed increase has not been shown to be just and reasonable, and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful, but also that the pre-existing rates may be excessive. Accordingly, in addition to suspending the proposed rates for five months and setting them for hearing, we will also institute an investigation in Docket No. EL92–31–000 of the present rates pursuant to section 206 of the Federal Power Act, 16 U.S.C. 824e (1988), and establish a refund effective date.

In cases where the Commission institutes a section 206 investigation on its own motion, section 206(b) requires that the Commission establish a refund effective date that is no earlier than 60 days after publication of the Commission's notice of investigation, but no later than five months subsequent to the expiration of the 60-day period. In these circumstances, we will establish the earliest possible refund effective date in order to give maximum protection to customers, *i.e.*, 60 days after publication of this order in the **Federal Register.**

Section 206 also requires that if the Commission has not rendered a final decision by the refund effective date or by the conclusion of the 180-day period commencing upon initiation of a proceeding pursuant to section 206, whichever is earlier, the Commission shall state the reasons why it has failed to do so and shall state its best estimate as to when it reasonably expects to make such a decision. To implement that requirement, we will direct the presiding judge to provide a report to the Commission 15 days before the refund effective date in the event the presiding judge has not by that date certified to the Commission: (1) A settlement which, if accepted, would dispose of the proceeding; or (2) an initial decision. The judge's report, if required, shall advise the Commission as to the status of the investigation and provide the best estimate of the expected date of certification of a settlement or an initial decision.

7. Waiver of Notice

Central Maine supports its request for waiver of notice by arguing that its proposed rate increase is fully justified, that its cost study could not be deficient because Central Maine had no obligation to file the study under the abbreviated filing requirements, and that the Customers contributed to the delay by requesting that Central Maine reinstate the existing fuel clause base. Central Maine is wrong on all counts.

As discussed above, our preliminary analysis indicates that the increase is not fully justified. Moreover, even if an increase may be justified, that is no basis to deny customers adequate notice. While Central Maine is eligible to file under the abbreviated filing requirements, those requirements do not excuse the utility from filing cost support. Since the cost study was the basis Central Maine chose to support its filing, Central Maine is required to fully explain it.[19] Finally, while the Customers' request for Central Maine to reinstate the existing fuel clause base contributed to the delay, the Customers requested it only because Central Maine erroneously told them that the new base would produce an additional $96,000 increase.[20] Moreover, even if Central Maine on its own had not revised its filing on February 25, 1992, the Director would have issued the second deficiency letter to obtain the necessary revenue data.

Therefore, waiver of notice will be denied and the five-month suspension will be measured from 60 days after April 23, 1992, the date the filing was completed. Accordingly, the proposed rates, as modified by summary disposition, will become effective November 23, 1992, subject to refund.

8. Consolidation

Given the common questions of law and fact presented, we shall consolidate Docket Nos. ER91–620–000 and EL92–31–000 for purposes of hearing and decision.

The Commission orders

(A) Central Maine is hereby directed to file revised rates and a revised cost of service within 60 days of the date of this order reflecting the summary

[18] *See, e.g.*, Utah Power & Light Company, Opinion No. 113, 14 FERC ¶61,162 at 61,297–98, *clarified*, 15 FERC ¶61,038, *order on reh'g*, Opinion No. 113–A, 15 FERC ¶61,076 (1981).

[19] Moreover, the deficiency letter did not simply require minor clarifications. It directed Central Maine to file revisions to comply with Commission precedent and to provide data necessary to evaluate the filing. For example, not until April 23, 1992 did Central Maine: (1) Explain that for years it had been computing its fuel clause billings using a lagging fuel clause even though its rate schedule provided otherwise; and (2) provide revenue data for the proposed rates.

[20] As to Central Maine's claim that a revised base will produce an additional increase of $96,000, this is mathematically incorrect. Rates, if properly designed, should recover no more than the test year revenue requirement. Consequently, with respect to the total revenue requirement—as a matter of simple mathematics—it would not matter whether the fuel adjustment clause base is set at zero, at a level below test year fuel costs, at a level equal to test year fuel costs, or at a level above test year fuel costs. This is because, regardless of how the base cost of fuel changes, the fuel adjustment clause works in conjunction witht he energy charge to recover no more than the actual cost of fuel. If more is recovered in the energy charge, less will be recovered through the fuel adjustment clause and if less is recovered in the energy charge, more will be recovered through the fuel adjustment clause. In short, in all cases, if properly designed, the various components of the rates, including the fuel adjustment clause, will, together, recover no more than the test year revenue requirement. A revised base cost of fuel therefore will not increase the total revenue requirement.

dispositions set forth in the body of this order.

(B) Central Maine's proposed rates are hereby accepted for filing, as modified in accordance with Ordering Paragraph (A) above, and are suspended for five months from 60 days after completion of the filing, to become effective on November 23, 1992, subject to refund.

(C) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR chapter I), a public hearing shall be held in Docket No. ER91–620–000 concerning the justness and reasonableness of Central Maine's proposed rates.

(D) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly section 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR, chapter I), a public hearing shall be held in Docket No. EL92–31–000 concerning the justness and reasonableness of Central Maine's present rates.

(E) The Commission trial staff is hereby directed to file top sheets within ten (10) days of the date of this order.

(F) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a prehearing conference in these proceedings to be held within approximately fifteen (15) days after service of trial staff top sheets, in a hearing room of the Federal Energy Regulatory Commission, 810 First Street NE., Washington DC 20426. The presiding judge is authorized to establish procedural dates (including a date for the submission of Central Maine's case-in-chief) and to rule on all motions (except motions to dismiss) as provided for in the Commission's Rules of Practice and Procedure.

(G) The refund effective date in Docket No. EL92–31–000 established pursuant to section 206 of the Federal Power Act shall be 60 days following publication in the Federal Register of the order as discussed in Ordering Paragraph (H) below.

(H) The Secretary shall promptly publish this order in the **Federal Register.**

(I) In the event that 15 days before the refund effective date the presiding administrative law judge has not certified to the Commission either: (1) A settlement which, if accepted, would dispose of the proceeding; or (2) an initial decision, then the judge shall report to the Commission on the status of this proceeding and provide a best estimate of when the judge expects to dispose of the proceeding.

(J) Central Maine is hereby advised that the rate schedule designations will be assigned following Central Maine's filing of revised rates pursuant to Ordering Paragraph (A) above.

(K) Central Maine's request for waiver of the notice requirement is hereby denied.

(L) Docket Nos. ER91–620–000 and EL92–31–000 are hereby consolidated for purposes of hearing and decision.

By the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 92–15111 Filed 6–26–92; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. RP92–1–000 and CP92–71–000]

Northern Natural Gas Co.; Informal Settlement Conference

June 22, 1991.

Take notice that an informal settlement conference will be convened in the above-captioned proceeding at 10 a.m. on July 1, 1992, at the offices of the Federal Energy Regulatory Commission, 810 First Street, NE., Washington, DC, for the purpose of exploring the possible settlement of the above-referenced dockets.

Any party, as defined by 18 CFR 383.102(c), or any participant as defined in 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information please contact Michael D. Cotleur, (202) 208–1076, or John J. Keating, (202) 208–0762.

Lois D. Cashell,

Secretary.

[FR Doc. 92–15108 Filed 6–26–92; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP91–203–000]

Tennessee Gas Pipeline Co.; Informal Settlement Conference

June 22, 1992.

Take notice that an informal settlement conference will be convened in this proceeding on July 16, 1992, at 10 a.m., at the offices of the Federal Energy Regulatory Commission, 810 First Street, NE., Washington, DC, for the purpose of exploring a settlement of cost-of-service and throughout issues in the captioned docket.

Any party, as defined by 18 CFR 385.102(c), or any participant, as defined by 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, contact Donald Williams at (202) 208–0743, or Dennis H. Melvin at (202) 208–0042.

Lois D. Cashell,

Secretary.

[FR Doc. 92–15109 Filed 6–26–92; 8:45 am]

BILLING CODE 6717–01–M

Office of Hearings and Appeals

Issuance of Decisions and Orders During the Week of June 1 Through June 5, 1992

During the week of June 1 through June 5, 1992, the decisions and orders summarized below were issued with respect to applications for relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Refund Applications

Norton Company, 6/2/92, RF272–01768, RD272–01768, RF272–11947, RD272–11947

The DOE issued a Decision and Order granting two Applications for Refund filed by Norton Company, a manufacturer of abrasive products, in the subpart V crude oil refund proceeding. A group of States and Territories (States) objected to one of the applications on the grounds that the applicant was able to pass through increased petroleum costs to its customers. In support of their objections, the States asserted that during the crude oil price control period, Norton increased the prices of its products to compensate for higher input costs, reduced its energy consumption per unit produced, and enjoyed increases in net

sales and net earnings per share. In objecting to the applicant's other application, the States submitted an affidavit of an economist stating that, because of the relative elasticities of supply and demand, nearly every industry passes through a portion of its cost increases. The DOE determined that the evidence offered by the States was insufficient to rebut the presumption of end-user injury and that the applicant should receive a refund. The DOE also denied the States' Motions for Discovery, finding that discovery was not warranted where the States had not presented evidence sufficient to rebut the applicant's presumption of injury. The refund granted to the applicant in this Decision was $66,310.

Texaco Inc./ Petrolane, Vangas, Inc., Pargas, Inc., 6/2/92, RF321–13409, RF321–13410, RF321–13411

The DOE issued a Decision and Order concerning three Applications for Refund filed by Quantum Chemical Corporation (Quantum) in the Texaco Inc. special refund proceeding on behalf of Petrolane, Vangas, Inc. (Vangas), and Pargas, Inc. (Pargas). Quantum acquired the stock of Vangas and Pargas subsequent to the consent order period, and holds 50 percent interest in QFB Partners, the holding company that owns Petrolane. Although applications filed by a single firm on behalf of related entities are generally treated as a single claim, Quantum argued that the DOE should consider the Vangas and Pargas claims as independent of the Petrolane claim. The DOE determined that separate treatment of the claims would be inconsistent with the purpose of the presumptions of injury established in the Texaco proceeding. Accordingly, Quantum was granted a refund under the medium-range presumption of injury of $6,217 ($4,739 principal plus $1,478 interest) on behalf of Vangas and Pargas, and QFB Partners was granted a medium-range refund of $35,126 ($26,775 principal plus $8,351 interest) on behalf of Petrolane.

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

Atlantic Richfield Company/Perzee-Lareau Sales & Service et al	RF304–3569	06/02/92
Atlantic Richfield Company/Wally's Arco et al	RF304–12951	06/03/92
Bayonne Industries, Inc	RF272–29793	06/04/92
Bayonne Industries, Inc	RD272–29793	
Enron Corp./Rankin Oil Co	RF340–43	06/01/92
Bob Remer Bottled Gas	RF340–65	
Exxon Corporation/Alvin Simpson, Inc	RF307–10212	06/04/92
Gulf Oil Corporation/Airport Store et al	RR300–136	06/01/92
Gulf Oil Corporation/Chestnut Hill Gulf et al	RF300–12140	06/04/92
Gulf Oil Corporation/Dart Industries-Thatcher Glass	RF300–12844	06/04/92
Gulf Oil Corporation/Trathen Gulf et al	RF300–14550	06/02/92
Midland Asphalt Corporation	RR272–81	06/03/92
Shell Oil Company/Floyd's Shell	RF315–7193	06/04/92
Shell Oil Company/Robert L. Runnfeldt et al	RF315–1012	06/02/92
Texaco Inc./Belle Chasse Texaco	RF321–18674	06/04/92
Texaco Inc./Cannon Texaco et al	RF321–3205	06/03/92
Texaco Inc./Dammann Texaco et al	RF321–8704	06/02/92
Texaco Inc./Jones Grocery & Service	RF321–18656	06/04/92
Texaco Inc./R.P. & J.L. Overstreet, Inc. et al	RF321–10225	06/04/92
Texaco Inc./Robinson-Gorham Oil Co., Inc	RF321–7097	06/02/92
Coast Oil Co	RF321–9973	
Modern Gas Service Corp	RF321–13905	
Doyle Distributing, Inc	RF321–13928	
UGI Corporation	RF272–70408	06/01/92
Utility Board of the City of Key West	RF272–78271	06/03/92

The following submissions were dismissed:

Name	Case No.
Althouse Texaco	RF321–10354
Berger's Texaco	RF321–5419
Bill Allen	RF321–11520
Bramble Standard	RF321–8
Bridge Street Texaco	RF321–12105
Britton Texaco	RF321–12115
Burke's Texaco	RF321–18076
Don Breedlove	RF321–11518
Doug Vallines	RF321–12232
Dunn's Texaco of Seattle	RF321–5411
Eastgate Texaco	RF321–12133
Essexville Texaco	RF321–12110
Express Freight Lines	RF272–57611
Five Corners Getty	RF321–6371
Gardenside Texaco	RF321–13893
Gerald A. Cantin, Inc	RF300–14918
Green's Texaco Station	RF321–1551
H&D Service	RF321–12108
Hank's Texaco	RF321–13876
Harold Owens Texaco	RF321–12109
Harold Wilfong Texaco	RF321–12132
Haynes Texaco	RF321–13898
Hill Street Texaco	RF321–7844
Jack Sprouse Texaco #1	RF321–12119
Jack Sprouse Texaco #2	RF321–12120
Jerry's Texaco	RF321–1632
Jim's Texaco	RF321–13878
Jim's Texaco	RF321–13862
John B. Herbert	RF300–14719
John Brockman's Texaco	RF321–13858
John S. Causey Distributor, Inc	RF300–16722
Kern's Place Texaco	RF321–13857
Lionel Jensen & Sons	RF321–12077
Lionel Jensen & Sons Texaco	RF321–12078
Main Street Texaco	RF321–13872
Martin Brothers	RF272–68574
Mays Texaco	RF321–12100
Merrifield Texaco	RF321–8980
North Side Texaco	RF321–12131
Parker Square Texaco	RF321–12135
Rex's Dist. Co., Inc	RF321–11823
S.A.C. Tire Service	RF321–6396
Simpson's Texaco Service	RF321–12116
Skinner's Texaco #1	RF321–12117
Skinner's Texaco #2	RF321–12118
Smart Service Center	RF321–12137
South Garage Arco Service Station	RF304–12411
St. George Oil Corp	RF315–947
State of South Dakota	RF321–13333
Stowe's Texaco Service	RF321–12122
Tody's Texaco	RF321–10342
Tolbert's Texaco	RF321–12127
Tully's Texaco	RF321–12129
Tully's Texaco Service	RF321–12128
West Center Skelly-Getty	RF321–6320
White Oak Corporation	RF272–52235
Woodall Texaco	RF321–12134

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, room 1E–234, Forrestal Building, 1000 Independence

Avenue, SW., Washington, DC 20585, Monday through Friday, between the hours of 1 p.m. and 5 p.m., except federal holidays. They are also available in Energy Management: Federal Energy Guidelines, a commercially published loose leaf reporter system.

Date: June 23, 1992.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 92-15231 Filed 6-26-92; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-4148-7]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before July 29, 1992.

FOR FURTHER INFORMATION OR A COPY OF THIS ICR, CONTACT: Sandy Farmer at EPA, (202) 260-2740.

SUPPLEMENTARY INFORMATION:

Office of Air and Radiation

Title: Radionuclide Information Collection from Federal Facilities Other than DOE Not Licensed by the Nuclear Regulatory Commission (EPA ICR #1100.05; OMB #2060-0191). This ICR requests approval for an amendment to an existing clearance.

Abstract: Recently the Agency has made effective a National Emission Standard for Hazardous Pollutants (NESHAP) for radionuclide emissions from non-Department of Energy federal facilities not licensed by the Nuclear Regulatory Commission. At the time of promulgation, December 15, 1989, (54 FR 51653) OMB did not grant approval for the recordkeeping and reporting requirements. In addition, the rule was stayed. The stay has since expired for this category of facilities, and the Agency is now seeking approval for these requirements.

The requirements for the annual report and recordkeeping are contained in 40 CFR 61.104 and 40 CFR 61.105 respectively. They include facility identification and location; a listing of radioactive materials and a description of the processing which the materials undergo; a listing of points where radioactive materials are released to the atmosphere; a description of emission controls at each point of release; the distance to the nearest school, residence, business or office and nearest farm producing vegetables, milk and meat; descriptions of the released radionuclides and methods for determining releases; stack, building and user-supplied input parameters and a description of construction and modifications. The Agency will use this information for compliance determination.

Burden Statement: The public reporting burden for this amendment to the approved collection of information is estimated to average 278 hours per response, including time for reviewing instructions, conducting tests, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Respondents: Department of Defense owned or operated facilities not licensed by the Nuclear Regulatory Commission.

Estimated Number of Respondents: 17.

Estimated Total Annual Burden on Respondents: 4896.

Frequency of Collection: Annually.

Send comments regarding the burden estimate, or any other aspect of this information collection, including suggestions for reducing the burden, to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM-223Y), 401 M Street SW, Washington, DC 20460

and

Troy Hillier, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street NW., Washington, D.C. 20503.

Dated: June 22, 1992.

Paul Lapsley, Director,

Regulatory Management Division.

[FR Doc. 92-15207 Filed 6-26-92; 8:45 am]

BILLING CODE 6560-50-M

[AMS-FRL-4148-6]

Marine Engines and Vessels: Public Workshop

AGENCY: Environmental Protection Agency.

ACTION: Notice of public workshop.

SUMMARY: On July 29, 1992, the Environmental Protection Agency (EPA) will hold a public workshop to inform interested parties of EPA's current and planned activities regarding marine engines and to solicit information on technical characteristics, emissions, potential control strategies and general issues related to marine engines.

DATES: The workshop will be convened at 9 a.m. on July 29, 1992. Persons interested in making presentations at the workshop are requested to notify the Agency contact listed below at least two weeks prior to the workshop so that a final agenda can be prepared. Written comment may be submitted to the same Agency contact until August 28, 1992.

ADDRESSES: The workshop will be held at Domino's Farms, Ulrich Room, 24 Frank Lloyd Wright Drive, Ann Arbor, MI 48105.

FOR FURTHER INFORMATION CONTACT: Clare Ryan, Certification Division, U.S. Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, Michigan 48105. Telephone: (313) 668-4577.

SUPPLEMENTARY INFORMATION: Section 213(a) of the Clean Air Act (CAA), as amended, requires EPA to complete a study of emissions from nonroad engines and vehicles by November 15, 1991. The CAA further requires EPA to regulate emissions from nonroad engines and vehicles if the Agency determines that these sources are significant contributors to ozone or carbon monoxide concentrations in more than one area which has failed to attain the national ambient air quality standards (NAAQS) for these pollutants. Marine engines are included under nonroad sources.

EPA finalized the Nonroad Engine and Vehicle Emission Study—Report and Appendices in November 1991. The report is available for public review in EPA Docket #A-91-24 and also through NTIS. EPA published a notice of availability of the report on January 6, 1992 (57 FR 408).

The study quantifies, through the use of nonroad equipment emission inventories, the contributions of nonroad sources to air quality problems. The study does not make a determination of significance of emissions from nonroad sources. EPA is addressing the issues relating to the determination of significance in a separate action and will provide an opportunity for public comment on this determination.

The study indicates that nonroad emissions constitute the single largest known source of uncontrolled VOC, CO and NO_x emissions. Due to the CAA

mandates and the health effects associated with high ambient levels of ozone and CO, EPA is soliciting more detailed information relevant to the possibilities for control of nonroad engine and vehicle emissions and the benefits and impacts of such control. Such information is essential as EPA explores the need for and feasibility of regulatory strategies for nonroad engines. The emphasis of this workshop is the gathering of information on marine engines, vessels, and market structure. EPA has not yet made a determination about regulating marine engines or vessels.

Public Participation

This notice announces one of a series of workshops designed to facilitate exchanges of information among interested parties as EPA continues its evaluation of nonroad engines. EPA recognizes that continued involvement by the manufacturing and environmental communities is necessary and valuable. EPA is conducting public workshops to solicit input form the industry and other knowledgeable parties regarding the technologies present in nonroad engines and vehicles, the emissions from such sources, the potential to reduce those emissions, and possible difficulties in doing so.

The workshop announced in this notice addresses all marine engines. EPA has not yet determined whether to segment the industry and if so, which engines to regulate.

Issues to be Addressed

A. Definition of the Marine Category

EPA requests comment on whether and how the marine category should be subdivided from a technical standpoint for purposes of investigating and establishing control strategies. EPA's starting position is that diesel and gasoline engines should be investigated and evaluated separately and that inboard and outboard engines should be investigated and evaluated separately. EPA requests comments on the advantages and disadvantages of subdividing the marine category.

B. Structure of Marine Market

EPA requests general information on the structure of the marine engine and vessel manufacturing market, including information on sales volumes, scrappage rates, and distribution mechanisms, as well as descriptions of engine families produced by each manufacturer. Workshop participants are requested to submit information on sales trends (technology changes, engine sizes, engine applications, etc.) and product technology profiles. Confidential information may be submitted to EPA directly without disclosure at the workshop and EPA will keep all such information confidential.

C. Testing Programs and Testing Needs

EPA requests information on the in-use operation of typical marine engines, any testing that is being or has been conducted on engines with new emission control technologies, and any other testing programs and testing needs. EPA is also interested in the discussion of what test procedures are currently being used (such as ICOMIA 34–88), the representativeness and limitations of current test procedures for testing marine engines, and the possibilities for new test procedures. Finally, EPA is interested in a discussion of exhaust gas sampling methods.

D. Characterization of Marine Engines

EPA request information on emissions from both new and in-use marine engines. In the Nonroad Engine and Vehicle Emission Study-Report, EPA noted that nonroad inventory estimates could be enhanced by collection of additional data. Information is needed on engine-out, refueling, evaporative, and crankcase emissions, and the effects of deterioration and improper maintenance on in-use emissions.

E. Emissions Reduction Technology

Workshop participants are requested to provide information on potential emission control strategies and the probable cost and effectiveness of those strategies, including the use of catalysts, Orbital technology for 2-stroke engines, 4-stroke technologies, fuel injection, ignition timing, air injection, EGR, enleanment, and others. EPA requests information on control of spillage during refueling and comment on whether EPA should pursue control of spillage. In addition, EPA requests comments on controls for evaporative emissions and crankcase emissions. EPA also solicits information on strategies to reduce in-use deterioration. EPA requests information on possibilities for emission reductions through the use of fuels such as propane, natural gas, methanol, ethanol, reformulated and oxygenated fuels, and the effects of any of these fuels on engine reliability. EPA requests information on any other concerns related to current or future marine fuels.

F. Flexibility in Investigating Emission Control Strategies

Information on alternative emission control of marine engines, such as market based strategies, fees, incentives, marina fuel quality control, and restricted access in lakes, are also solicited.

G. Marine Engine and Vessel Usage

EPA may pursue modeling the effects of marine engines on the environment. Workshop participants are requested to provide information on geographic and temporal distributions of boat use, types of boats, types of operation, and actual boater motoring patterns (how much time at idle, WOT, etc.). Information on annual hours of operation per boat and fuel consumption are also solicited.

Safety and Environmental Issues

In considering regulatory strategies for marine engines and vessels, EPA must also consider the possible impact of emission controls on noise, energy, environmental and safety factors associated with emissions controls. EPA requests information on the potential for such impacts, and also information on any noise, energy or safety regulations (e.g. State, local, and international) that apply to marine engines and vessels. EPA also requests manufacturer's and other interested parties' reactions to European initiatives. Workshop participants are also requested to provide data on emissions impacts on water and environmental quality.

Presiding Officer

Mr. Richard D. Wilson, Director of the Office of Mobile Sources, will be the presiding officer of the workshop. The workshop will be conducted informally, and technical rules of evidence will not apply.

Dated: June 22, 1992.

Michael Shapiro,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 92–15208 Filed 6–26–92; 8:45 am]

BILLING CODE 6560–50–M

[OPPTS–51798; FRL 4076–3]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in the final rule published in the Federal Register of May 13, 1983 (48

FR 21722). This notice announces receipt of 86 such PMNs and provides a summary of each.

DATES: Close of review periods:

P 92–927, 92–928, 92–929, 92–930, 92–931, 92–932, 92–933, 92–934, 92–935, 92–936, 92–937, 92–938, 92–939, 92–940, 92–941, 92–942, 92–943, 92–944, 92–945, 92–946, 92–947, 92–948, 92–949, 92–950, 92–951, 92–952, 92–953, 92–954, 92–955, 92–956, 92–957, 92–958, 92–959, 92–960, 92–961, 92–962, 92–963, 92–964, 92–965, 92–966, 92–967, 92–968, 92–969, 92–970, 92–971, 92–972, 92–973, 92–974, 92–975, August 16, 1992.

P 92–1032, 92–1033, August 31, 1992.

P 92–1034, August 30, 1992.

P 92–1035, August 31, 1992.

P 92–1036, August 6, 1992.

P 92–1037, 92–1038, 92–1039, 92–1040, 92–1041, 92–1042, 92–1043, 92–1044, September 2, 1992.

P 92–1045, 92–1046, 92–1047, 92–1048, 92–1049, 92–1050, 92–1051, 92–1052, 92–1053, September 5, 1992.

P 92–1054, September 8, 1992.

P 92–1055, September 5, 1992.

P 92–1056, 92–1057, September 6, 1992.

P 92–1058, 92–1060, September 7, 1992.

P 92–1061, September 6, 1992.

P 92–1062, 92–1063, 92–1064, 92–1065, 92–1067, 92–1068, 92–1069, 92–1070, September 8, 1992.

Written comments by:

P 92–927, 92–928, 92–929, 92–930, 92–931, 92–932, 92–933, 92–934, 92–935, 92–936, 92–937, 92–938, 92–939, 92–940, 92–941, 92–942, 92–943, 92–944, 92–945, 92–946, 92–947, 92–948, 92–949, 92–950, 92–951, 92–952, 92–953, 92–954, 92–955, 92–956, 92–957, 92–958, 92–959, 92–960, 92–961, 92–962, 92–963, 92–964, 92–965, 92–966, 92–967, 92–968, 92–969, 92–970, 92–971, 92–972, 92–973, 92–974, 92–975, July 17, 1992.

P 92–1032, 92–1033, August 1, 1992.

P 92–1034, July 31, 1992.

P 92–1035, August 1, 1992.

P 92–1036, July 7, 1992.

P 92–1037, 92–1038, 92–1039, 92–1040, 92–1041, 92–1042, 92–1043, 92–1044, August 3, 1992.

P 92–1045, 92–1046, 92–1047, 92–1048, 92–1049, 92–1050, 92–1051, 92–1052, 92–1053, August 6, 1992.

P 92–1054, August 9, 1992.

P 92–1055, August 6, 1992.

P 92–1056, 92–1057, August 7, 1992.

P 92–1058, 92–1060, August 8, 1992.

P 92–1061, August 7, 1992.

P 92–1062, 92–1063, 92–1064, 92–1065, 92–1067, 92–1068, 92–1069, 92–1070, August 9, 1992.

ADDRESSES: Written comments, identified by the document control number "(OPPTS–51798)" and the specific PMN number should be sent to: Document Processing Center (TS–790), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Rm. 201ET, Washington, DC, 20460, (202) 260–3532.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (TS–799), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–545, 401 M St., SW., Washington, DC 20460 (202) 554–1404, TDD (202) 554–0551.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the nonconfidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete nonconfidential document is available in the TSCA Public Docket Office NE –G004 at the above address between 8 a.m. and noon and 1 p.m. and 4 p.m., Monday through Friday, excluding legal holidays.

P 92–927

Manufacturer. Confidential.

Chemical. (G) Polymer salt of alkyl propenoates, ethenyl benzene and ethylene carboxilic acid.

Use/Production. (S) Coatings. Prod. range: 2,500,000–5,000,000 kg/yr.

P 92–928

Manufacturer. Confidential.

Chemical. (G) Polymer salt of alkyl propenoates, ethenyl benzene and ethylene carboxilic acid.

Use/Production. (S) Coatings. Prod. range: 2,500,000–5,000,000 kg/yr.

P 92–929

Manufacturer. Confidential.

Chemical. (G) Polymer salt of alkyl propenoates, ethenyl benzene and ethylene carboxilic acid.

Use/Production. (S) Coatings. Prod. range: 2,500,000–5,000,000 kg/yr.

P 92–930

Manufacturer. Confidential.

Chemical. (G) Polymer salt of alkyl propenoates, ethenyl benzene and ethylene carboxilic acid.

Use/Production. (S) Coatings. Prod. range: 2,500,000–5,000,000 kg/yr.

P 92–931

Manufacturer. Confidential.

Chemical. (G) Polymer salt of alkyl propenoates, ethenyl benzene and ethylene carboxilic acid.

Use/Production. (S) Coatings. Prod. range: 2,500,000–5,000,000 kg/yr.

P 92–932

Manufacturer. Confidential.

Chemical. (G) Polymer salt of alkyl propenoates, ethenyl benzene and ethylene carboxilic acid.

Use/Production. (S) Coatings. Prod. range: 2,500,000–5,000,000 kg/yr.

P 92–933

Manufacturer. Confidential.

Chemical. (G) Polymer salt of alkyl propenoates, ethenyl benzene and ethylene carboxilic acid.

Use/Production. (S) Coatings. Prod. range: 2,500,000–5,000,000 kg/yr.

P 92–934

Manufacturer. Confidential.

Chemical. (G) Polymer salt of alkyl propenoates, ethenyl benzene and ethylene carboxilic acid.

Use/Production. (S) Coatings. Prod. range: 2,500,000–5,000,000 kg/yr.

P 92–935

Manufacturer. Confidential.

Chemical. (G) Polymer salt of alkyl propenoates, ethenyl benzene and ethylene carboxilic acid.

Use/Production. (S) Coatings. Prod. range: 2,500,000–5,000,000 kg/yr.

P 92–936

Manufacturer. Confidential.

Chemical. (G) Polymer salt of alkyl propenoates, ethenyl benzene and ethylene carboxilic acid.

Use/Production. (S) Coatings. Prod. range: 2,500,000–5,000,000 kg/yr.

P 92–937

Manufacturer. Confidential.

Chemical. (G) Polymer salt of alkyl propenoates, ethenyl benzene and ethylene carboxilic acid.

Use/Production. (S) Coatings. Prod. range: 2,500,000–5,000,000 kg/yr.

P 92–938

Manufacturer. Confidential.

Chemical. (G) Polymer salt of alkyl propenoates, ethenyl benzene and ethylene carboxilic acid.

Use/Production. (S) Coatings. Prod. range: 2,500,000–5,000,000 kg/yr.

P 92–939

Manufacturer. Confidential.

Chemical. (G) Polymer salt of alkyl propenoates, ethenyl benzene and ethylene carboxilic acid.

Use/Production. (S) Coatings. Prod. range: 2,500,000–5,000,000 kg/yr.

P 92–940

Manufacturer. Confidential.

Chemical. (G) Polymer salt of alkyl propenoates, ethenyl benzene and ethylene carboxilic acid.

Use/Production. (S) Coatings. Prod. range: 2,500,000–5,000,000 kg/yr.

P 92-941
Manufacturer. Confidential.
Chemical. (G) Polymer salt of alkyl propenoates, ethenyl benzene and ethylene carboxilic acid.
Use/Production. (S) Coatings. Prod. range: 2,500,000–5,000,000 kg/yr.

P 92-942
Manufacturer. Confidential.
Chemical. (G) Polymer salt of alkyl propenoates, ethenyl benzene and ethylene carboxilic acid.
Use/Production. (S) Coatings. Prod. range: 2,500,000–5,000,000 kg/yr.

P 92-943
Manufacturer. Confidential.
Chemical. (G) Polymer salt of alkyl propenoates, ethenyl benzene and ethylene carboxilic acid.
Use/Production. (S) Coatings. Prod. range: 2,500,000–5,000,000 kg/yr.

P 92-944
Manufacturer. Confidential.
Chemical. (G) Polymer salt of alkyl propenoates, ethenyl benzene and ethylene carboxilic acid.
Use/Production. (S) Coatings. Prod. range: 2,500,000–5,000,000 kg/yr.

P 92-945
Manufacturer. Confidential.
Chemical. (G) Polymer salt of alkyl propenoates, ethenyl benzene and ethylene carboxilic acid.
Use/Production. (S) Coatings. Prod. range: 2,500,000–5,000,000 kg/yr.

P 92-946
Manufacturer. Confidential.
Chemical. (G) Polymer salt of alkyl propenoates, ethenyl benzene and ethylene carboxilic acid.
Use/Production. (S) Coatings. Prod. range: 2,500,000–5,000,000 kg/yr.

P 92-947
Manufacturer. Confidential.
Chemical. (G) Polymer salt of alkyl propenoates, ethenyl benzene and ethylene carboxilic acid.
Use/Production. (S) Coatings. Prod. range: 2,500,000–5,000,000 kg/yr.

P 92-948
Manufacturer. Confidential.
Chemical. (G) Polymer salt of alkyl propenoates, ethenyl benzene and ethylene carboxilic acid.
Use/Production. (S) Coatings. Prod. range: 2,500,000–5,000,000 kg/yr.

P 92-949
Manufacturer. Confidential.
Chemical. (G) Polymer salt of alkyl propenoates, ethenyl benzene and ethylene carboxilic acid.
Use/Production. (S) Coatings. Prod. range: 2,500,000–5,000,000 kg/yr.

P 92-950
Manufacturer. Confidential.
Chemical. (G) Polymer salt of alkyl propenoates, ethenyl benzene and ethylene carboxilic acid.
Use/Production. (S) Coatings. Prod. range: 2,500,000–5,000,000 kg/yr.

P 92-951
Manufacturer. Confidential.
Chemical. (G) Polymer salt of alkyl propenoates, ethenyl benzene and ethylene carboxilic acid.
Use/Production. (S) Coatings. Prod. range: 2,500,000–5,000,000 kg/yr.

P 92-952
Manufacturer. Confidential.
Chemical. (G) Polymer salt of alkyl propenoates, ethenyl benzene and ethylene carboxilic acid.
Use/Production. (S) Coatings. Prod. range: 2,500,000–5,000,000 kg/yr.

P 92-953
Manufacturer. Confidential.
Chemical. (G) Polymer salt of alkyl propenoates, ethenyl benzene and ethylene carboxilic acid.
Use/Production. (S) Coatings. Prod. range: 2,500,000–5,000,000 kg/yr.

P 92-954
Manufacturer. Confidential.
Chemical. (G) Polymer salt of alkyl propenoates, ethenyl benzene and ethylene carboxilic acid.
Use/Production. (S) Coatings. Prod. range: 2,500,000–5,000,000 kg/yr.

P 92-955
Manufacturer. Confidential.
Chemical. (G) Polymer salt of alkyl propenoates, ethenyl benzene and ethylene carboxilic acid.
Use/Production. (S) Coatings. Prod. range: 2,500,000–5,000,000 kg/yr.

P 92-956
Manufacturer. Confidential.
Chemical. (G) Polymer salt of alkyl propenoates, ethenyl benzene and ethylene carboxilic acid.
Use/Production. (S) Coatings. Prod. range: 2,500,000–5,000,000 kg/yr.

P 92-957
Manufacturer. Confidential.
Chemical. (G) Polymer salt of alkyl propenoates, ethenyl benzene and ethylene carboxilic acid.
Use/Production. (S) Coatings. Prod. range: 2,500,000–5,000,000 kg/yr.

P 92-958
Manufacturer. Confidential.
Chemical. (G) Polymer salt of alkyl propenoates, ethenyl benzene and ethylene carboxilic acid.
Use/Production. (S) Coatings. Prod. range: 2,500,000–5,000,000 kg/yr.

P 92-959
Manufacturer. Confidential.
Chemical. (G) Polymer salt of alkyl propenoates, ethenyl benzene and ethylene carboxilic acid.
Use/Production. (S) Coatings. Prod. range: 2,500,000–5,000,000 kg/yr.

P 92-960
Manufacturer. Confidential.
Chemical. (G) Polymer salt of alkyl propenoates, ethenyl benzene and ethylene carboxilic acid.
Use/Production. (S) Coatings. Prod. range: 2,500,000–5,000,000 kg/yr.

P 92-961
Manufacturer. Confidential.
Chemical. (G) Polymer salt of alkyl propenoates, ethenyl benzene and ethylene carboxilic acid.
Use/Production. (S) Coatings. Prod. range: 2,500,000–5,000,000 kg/yr.

P 92-962
Manufacturer. Confidential.
Chemical. (G) Polymer salt of alkyl propenoates, ethenyl benzene and ethylene carboxilic acid.
Use/Production. (S) Coatings. Prod. range: 2,500,000–5,000,000 kg/yr.

P 92-963
Manufacturer. Confidential.
Chemical. (G) Polymer salt of alkyl propenoates, ethenyl benzene and ethylene carboxilic acid.
Use/Production. (S) Coatings. Prod. range: 2,500,000–5,000,000 kg/yr.

P 92-964
Manufacturer. Confidential.
Chemical. (G) Polymer salt of alkyl propenoates, ethenyl benzene and ethylene carboxilic acid.
Use/Production. (S) Coatings. Prod. range: 2,500,000–5,000,000 kg/yr.

P 92-965
Manufacturer. Confidential.
Chemical. (G) Polymer salt of alkyl propenoates, ethenyl benzene and ethylene carboxilic acid.
Use/Production. (S) Coatings. Prod. range: 2,500,000–5,000,000 kg/yr.

P 92-966
Manufacturer. Confidential.
Chemical. (G) Polymer salt of alkyl propenoates, ethenyl benzene and ethylene carboxilic acid.
Use/Production. (S) Coatings. Prod. range: 2,500,000–5,000,000 kg/yr.

P 92-967
Manufacturer. Confidential.
Chemical. (G) Polymer salt of alkyl propenoates, ethenyl benzene and ethylene carboxilic acid.

Use/Production. (S) Coatings. Prod. range: 2,500,000–5,000,000 kg/yr.

P 92–968

Manufacturer. Confidential.

Chemical. (G) Polymer salt of alkyl propenoates, ethenyl benzene and ethylene carboxilic acid.

Use/Production. (S) Coatings. Prod. range: 2,500,000–5,000,000 kg/yr.

P 92–969

Manufacturer. Confidential.

Chemical. (G) Polymer salt of alkyl propenoates, ethenyl benzene and ethylene carboxilic acid.

Use/Production. (S) Coatings. Prod. range: 2,500,000–5,000,000 kg/yr.

P 92–970

Manufacturer. Confidential.

Chemical. (G) Polymer salt of alkyl propenoates, ethenyl benzene and ethylene carboxilic acid.

Use/Production. (S) Coatings. Prod. range: 2,500,000–5,000,000 kg/yr.

P 92–971

Manufacturer. Confidential.

Chemical. (G) Polymer salt of alkyl propenoates, ethenyl benzene and ethylene carboxilic acid.

Use/Production. (S) Coatings. Prod. range: 2,500,000–5,000,000 kg/yr.

P 92–972

Manufacturer. Confidential.

Chemical. (G) Polymer salt of alkyl propenoates, ethenyl benzene and ethylene carboxilic acid.

Use/Production. (S) Coatings. Prod. range: 2,500,000–5,000,000 kg/yr.

P 92–973

Manufacturer. Confidential.

Chemical. (G) Polymer salt of alkyl propenoates, ethenyl benzene and ethylene carboxilic acid.

Use/Production. (S) Coatings. Prod. range: 2,500,000–5,000,000 kg/yr.

P 92–974

Manufacturer. Confidential.

Chemical. (G) Polymer salt of alkyl propenoates, ethenyl benzene and ethylene carboxilic acid.

Use/Production. (S) Coatings. Prod. range: 2,500,000–5,000,000 kg/yr.

P 92–975

Manufacturer. Confidential.

Chemical. (G) Polymer salt of alkyl propenoates, ethenyl benzene and ethylene carboxilic acid.

Use/Production. (S) Coatings. Prod. range: 2,500,000–5,000,000 kg/yr.

P 92–1032

Manufacturer. Eastman Kodak Company.

Chemical. (G) (Amino aromatic alkyl)halosubstituted heterocycle hydrochloride salt.

Use/Production. (G) Chemical intermediate. Prod. range: 1,100–1,200 kg/yr.

P 92–1033

Manufacturer. Confidential.

Chemical. (G) Alkoxyphenol, 4-dihydroalkylphyran, isomer mix.

Use/Production. (G) Fragrance component. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 2.0 g/kg species (rat). Acute dermal toxicity: LD50 > 2.0 g/kg species (rabbit). Static acute toxicity: time LC50 96h24 mg/l species (rainbow trout). Eye irritation: slight species (rabbit). Skin irritation: slight species (rabbit). Mutagenicity: negative. Skin sensitization: negative species (guinea pig).

P 92–1034

Importer. Electra Polymers and Chemicals Inc.

Chemical. (G) Epoxy novolac acrylate carboxylate.

Use/Import. (S) Soldermask/insulation coating. Import range: Confidential.

P 92–1035

Manufacturer. Eastman Kodak Company.

Chemical. (G) Substituted cycloalkane.

Use/Production. (G) Dispersive use for article. Prod. range: 1,000–15,000 kg/yr.

Toxicity Data. Acute oral toxicity: LD50 > 2,000 mg/kg species (rat). Acute dermal toxicity: LD50 > 2,000 mg/kg species (rabbit). Eye irritation: none species (rabbit). Skin irritation: negligible species (rabbit). Skin sensitization: negative species (guinea pig).

P 92–1036

Importer. Ausimont USA, Inc.

Chemical. (S) Parfluoropropene and oxygen polymerized, amide derivative.

Use/Import. (S) Lubricant. Import range: Confidential.

P 92–1037

Importer. Goldschmidt Chemical Coporation.

Chemical. (G) Amino functional siloxane copolymer.

Use/Import. (G) Open, nondispersive. Import range: Confidential.

P 92–1038

Importer. Confidential.

Chemical. (G) Styrene acryl copolymer.

Use/Import. (G) Dispersing agent. Import range: Confidential.

P 92–1039

Manufacturer. Confidential.

Chemical. (G) Imide.

Use/Production. (G) Intermediate for surfactant. Prod. range: Confidential.

P 92–1040

Manufacturer. Confidential.

Chemical. (G) Imide.

Use/Production. (G) Intermediate for surfactant. Prod. range: Confidential.

P 92–1041

Manufacturer. Confidential.

Chemical. (G) Imide.

Use/Production. (G) Intermediate for surfactant. Prod. range: Confidential.

P 92–1042

Manufacturer. Confidential.

Chemical. (G) Imide.

Use/Production. (G) Intermediate for surfactant. Prod. range: Confidential.

P 92–1043

Manufacturer. Confidential.

Chemical. (G) Imide.

Use/Production. (G) Intermediate for surfactant. Prod. range: Confidential.

P 92–1044

Manufacturer. Confidential.

Chemical. (G) Imide.

Use/Production. (G) Intermediate for surfactant. Prod. range: Confidential.

P 92–1045

Manufacturer. Dover Chemical Corporation.

Chemical. (S) Meta-toluic acid, calcium salt.

Use/Production. (S) Heat stabilizer. Prod. range: 9,080–27,240 kg/yr.

P 92–1046

Importer. Toyo Dupont International Ink.

Chemical. (G) Aluminium chelate.

Use/Import. (S) Gellant for printing inks. Import range: 4,000 kg/yr.

P 92–1047

Manufacturer. Confidential.

Chemical. (G) Phenylalkylpyram.

Use/Production. (S) Aroma chemical for use in fragrances mixtures. Prod. range: 1,000–5,000 kg/yr.

P 92–1048

Manufacturer. Texaco Chemical Company.

Chemical. (G) Substituted bis-alkrnylsuccinimide condensate within aromatic amine and an aldehyde.

Use/Production. (S) Lube oil additive for crankcase engine oils. Prod. range: Confidential.

P 92–1049

Importer. George A. Goulston Co., Inc.

Chemical. (G) Alkoxy terminated polyethylene glycol, aromatic and aliphate acid polyester.

Use/Import. (G) Finishing oil for textile fibers. Import range: 1,000–10,000 kg/yr.

P 92–1050

Manufacturer. Henkel Corporation.

Chemical. (G) Aliphatic tricarboxylic acid.

Use/Production. (G) Polymer modifier. Prod. range: Confidential.

P 92–1051

Manufacturer. Dow Corning Corporation.

Chemical. (S) 1,2-Ethanediamine, *N*-[(ethenylphenyl)methyl]-*N*-[3-trimethoxysilyl]propyl-, hydrolyzate.

Use/Production. (S) Silane coupling agent for glass fibers. Prod. range: Confidential.

Toxicity Data. Eye irritation: strong species (rabbit). Skin irritation: slight species (rabbit). Skin sensitization: negative species (guinea pig).

P 92–1052

Manufacturer. Confidential.

Chemical. (S) 1,2-Ethanediamine, *N*-[(ethanylphenyl]methyl)-*N'*-[3-(trimethoxysilyl)propyl-, hydrolyzate.

Use/Production. (G) Softening of cellular. Prod. range: Confidential.

P 92–1053

Manufacturer. Confidential.

Chemical. (G) Polyethanolamine diester with fatty acids dialkyl sulfate salts.

Use/Production. (G) Softening of cellular. Prod. range: Confidential.

P 92–1054

Manufacturer. Confidential.

Chemical. (G) Polyethanolamine diester with fatty acids, dialkylsulfate salts.

Use/Production. (G) Softening of cellular. Prod. range: Confidential.

P 92–1055

Manufacturer. Organic Chemicals.

Chemical. (G) Inorganic cyanide salt.

Use/Production. (G) Inorganic catalyst. Prod. range: Confidential.

P 92–1056

Importer. Hoechst Celanese Corporation.

Chemical. (G) Phenolic novolak resin.

Use/Import. (S) Adhesives. Import range: 20,000–35,000 kg/yr.

P 92–1057

Importer. Hoechst Celanese Corporation.

Chemical. (G) Unsaturated polyester resin.

Use/Import. (S) Putty for auto body repair. Import range: 10,000 kg/yr.

P 92–1058

Importer. Ciba-Geigy Corporation.

Chemical. (G) Isoindoione.

Use/Import. (G) Open, nondispersive. Import range: Confidential.

Toxicity Data. Eye irritation: none species (rabbit). Skin irritation: negligible species (rabbit). Mutagenicity: negative.

P 92–1060

Importer. Confidential.

Chemical. (G) Saturated polyester resin.

Use/Import. (S) Resin for printing inks and coatings. Import range: Confidential.

P 92–1061

Manufacturer. Eastman Chemical Company.

Chemical. (S) 1,4-Benzenedicarboxylic acid, reaction product with 1,4-benzendicarboxylic acid, dimethyl ester, cyclohexanedimethanol, 2-hydroxyethanol, 2-(2-hydoxyethoxy)ether.

Use/Import. (S) Polyester intermediate. Import range: Confidential.

P 92–1062

Manufacturer. Confidential.

Chemical. (G) Substituted pyranone.

Use/Production. (G) Destructive use. Prod. range: Confidential.

P 92–1063

Manufacturer. Confidential.

Chemical. (G) Cyclic ketone.

Use/Production. (G) Destructive use. Prod. range: Confidential.

P 92–1064

Manufacturer. Confidential.

Chemical. (G) Alkylated cyclio diene.

Use/Production. (G) Destructive use. Prod. range: Confidential.

P 92–1065

Manufacturer. Confidential.

Chemical. (G) Substituted cyclic alkyl halosilane.

Use/Production. (G) Destructive use. Prod. range: Confidential.

P 92–1067

Manufacturer. Confidential.

Chemical. (G) Alkali metal salt of substituted cyclic alkylamidosilane.

Use/Production. (G) Destructive use. Prod. range: Confidential.

P 92–1068

Manufacturer. Confidential.

Chemical. (G) Substituted cyclo alkylamino metal halide.

Use/Production. (G) Destructive use. Prod. range: Confidential.

P 92–1069

Manufacturer. Confidential.

Chemical. (G) Alkylated phenolic copolymer.

Use/Production. (S) Chemical intermediate. Prod. range: Confidential.

P 92–1070

Manufacturer. Confidential.

Chemical. (G) Naphthaquinone diazide sulfonyl and methane sulfonyl ester mixture of a polynuclear hydroxy phenol.

Use/Production. (G) Chemical intermediate. Prod. range: Confidential.

Dated: June 22, 1992.

Steven Newburg-Rinn,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 92–15116 Filed 6–26–92; 8:45 am]

BILLING CODE 6560–50–F

[FRL–4148–8]

Public Water System Supervision Program Revision for the State of Colorado

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Public notice is hereby given in accordance with the provisions of § 1413 of the Safe Drinking Water Act as amended, 42 U.S.C. 300f *et seq.*, and 40 CFR part 142, subpart B, the National Primary Drinking Water Regulations, that the State of Colorado has revised its approved Public Water System Supervision (PWSS) Primacy Program. Colorado has developed drinking water regulations for Total Coliforms that correspond to the National Primary Drinking Water Regulations for Total Coliforms promulgated by EPA on June 29, 1989, (57 FR 27544). EPA has approved this State program revision. This determination shall become effective July 29, 1992 and was based upon a thorough evaluation of Colorado's PWSS program which has met the requirements stated in 40 CFR part 142, Subpart B.

Any interested parties are invited to submit written comments on this determination, and may request a public hearing on or before July 29, 1992. If a public hearing is requested and granted, this determination shall not become effective until such time following the hearing that the Regional Administrator issues an order affirming or rescinding this action.

Requests for a public hearing should be addressed to: Jack W. McGraw,

Acting Regional Administrator, U.S. Environmental Protection Agency, Region VIII, 999 18th Street, suite 500, Denver, CO 80202–2466.

Frivolous or insubstantial requests for a hearing may be denied by the Regional Administrator. However, if a substantial request is made within thirty (30) days after this notice, a public hearing will be held.

Any request for a public hearing shall include the following: (1) The name, address, and telephone number of the individual, organization, or other entity requesting a hearing; (2) a brief statement of the requesting person's interest in the Regional Administrator's determination and of information that the requesting person intends to submit at such hearing; and (3) the signature of the individual making the request, or if the request is made on behalf of an organization or other entity, the signature of the responsible official of the organization or other entity.

Notice of any hearing shall be given not less than fifteen (15) days prior to the time scheduled for the hearing. Such notice will be made by the Regional Administrator in the Federal Register and in newspapers of general circulation in the State of Colorado. A notice will also be sent to the person(s) requesting the hearing as well as to the State of Colorado. The hearing notice will include a statement of purpose, information regarding time and location, and the address and telephone number where interested persons may obtain further information. The regional Administrator will issue an order affirming or rescinding his determination upon review of the hearing record. Should the determination be affirmed, it will become effective as of the date of the order.

Should no timely and appropriate request for a hearing be received, and the Regional Administrator does not elect to hold a hearing on his own motion, this determination shall become effective on July 29, 1992. Please bring this notice to the attention of any persons known by you to have an interest in this determination.

All documents relating to this determination are available for inspection at the following locations: (1) U.S. EPA Region VIII, Drinking Water Branch, 999 18th Street (4th floor), Denver, Colorado; (2) Colorado Department of Health, Office of Health & Environmental Protection, 4210 East 11th Avenue, room 350, Denver, Colorado.

FOR FURTHER INFORMATION CONTACT: Marty Swickard, EPA Region VIII 8WM–DW, 999 18th Street, suite 500, Denver, Colorado 80202–2466, telephone (303) 293–1629.

Dated: June 22, 1992

Jack W. McGraw,

Acting Regional Administrator, EPA, Region VIII.

[FR Doc. 92–15209 Filed 6–26–92; 8:45 am]

BILLING CODE 6560–50–M

[FRL–4148–5]

Open Meeting on July 16, 1992: Regulatory Design Focus Group of the Technology Innovation and Economics Committee, National Advisory Council for Environmental Policy and Technology (NACEPT)

Under PL 92463 (The Federal Advisory Committee Act), EPA gives notice of a meeting of the Regulatory Design Focus Group of the Technology Innovation and Economics (TIE) Committee. The TIE Committee is a standing Committee of the National Advisory Council for Environmental Policy and Technology (NACEPT), the external policy advisory committee to the Administrator of the EPA. The meeting will convene July 16, 1992 from 8:30 a.m. to 5 p.m. at the Delta Research Corporation located at 1501 Wilson Blvd., suite 1200, Arlington, VA 22209.

This meeting will discuss the scope of the problem of how government intervention, regulatory or economic in nature, can improve the incentive structure for involved parties to undertake responsible environmental actions. Additionally, proposals for Focus Group projects and studies submitted by Focus Group members will be discussed. Efforts at the July 16 meeting will be directed toward selecting a group of actions for Focus Group investigation that yield encouragement to environmental progress, innovation, competitiveness, and pollution prevention in the near term.

The July meeting will be open to the public. Written comments submitted by July 14 will be received and considered by the Focus Group. Additional information about the meeting will be available July 7, 1992, and may be obtained from David R. Berg or Morris Altschuler at EPA, 401 M Street, SW. (A–101 F6), Washington, DC 20460, by calling 202–260–9153, or by written request sent by fax to 202–260–6882 or by mail to the above address.

Dated: June 18, 1992

Abby J. Pirnie,

NACEPT Designated Federal Official.

[FR Doc. 92–15210 Filed 6–26–92; 8:45 am]

BILLING CODE 6560–50

[OPPTS–00121; FRL–4075–7]

Training Grants for Lead-Based Paint Abatement Workers

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of request for proposals.

SUMMARY: The safety issues surrounding the activities of lead-based paint abatement workers is a major concern of EPA. Appropriate worker safety training is essential if lead-based paint abatement activity is to be done in a manner that assures the safety of occupants, the public, the environment, and abatement workers. To ensure that the number of well-trained, lead-based paint abatement workers increases at an acceptable rate, EPA has received congressional add-on funds to provide training grants to nonprofit organizations already engaged in lead-based paint abatement worker training and education activities. Only nonprofit organizations who have demonstrated experience in the implementation and operation of health and safety training for lead-based paint abatement workers will be considered for funding. This notice describes the eligibility requirements and the criteria for the selection of proposals.

DATES: All proposals must be submitted to EPA no later than July 17, 1992.

ADDRESSES: Proposals should be sent to the following address: Grants Operations Branch (PM–216F), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Karen Hoffman, Environmental Assistance Division (TS–799), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, Telephone: (202) 260–7849.

SUPPLEMENTARY INFORMATION: The FY 1992 House Appropriations language mandates that EPA administer grants to nonprofit organizations which already have developed training and education programs addressing lead-based paint abatement worker activities including health and safety issues. The purpose of this notice is to announce the availability of funds to form cooperative agreements with those organizations demonstrating experience in lead-based paint training activities. Any nonprofit

organization is eligible to apply. For the purposes of this notice, the term lead-based paint abatement activities means activities engaged in by workers that include the removal, disposal, handling, and transportation of lead-based paint and materials containing lead-based paint from public and private dwellings, public and commercial buildings, bridges and other structures or superstructures where lead-based paint presents or may present an unreasonable risk to health or the environment.

Any nonprofit organization which is not an agency of a State or local government is eligible to apply. For the purposes of eligibility for this cooperative agreement, State or local governments do not include State or local government supported institutions of higher education.

I. Administrative Requirements

The award program will be administered in compliance with 41 CFR parts 29–70 and OMB Circulars A–110, A–133 and A–21 or A–122. All applicants will be required to certify to a drug-free workplace in accordance with 20 CFR part 98 and to comply with the New Restrictions on Lobbying published at 29 CFR part 93.

The program is subject to matching share requirements. Awards shall be given only to those programs that can fund at least 30 percent of their programs from non-Federal sources, excluding in-kind contributions. In-kind contributions are defined as the value of a non-cash contribution to meet a recipient's cost sharing requirements. An in-kind contribution may consist of charges for real property and equipment, or the value of goods and services directly benefiting the EPA funded project. The recipient's matching share may exceed 30 percent.

II. Evaluation Criteria

Proposals submitted for a cooperative agreement solicited in this notice will be evaluated on a competitive basis by an EPA review panel. The following factors, which are weighted by percentage as to their relative importance, will be considered in the evaluation of proposals:

1. *Program Experience (25%)*

a. Experience in the development of adult education courses with emphasis on training individuals with limited educational experience.

b. Experience in the delivery of health and safety course materials to individuals with limited or no English language skills.

c. Demonstrated ability to target the worker population.

2. *Lead-Based Paint Abatement Worker Course Experience (30%)*

a. Experience in the delivery of courses to lead-based paint abatement workers (i.e., number of workers and instructors trained, number of existing training sites). Please provide a copy of existing curriculum.

b. Experience with providing hands-on training to lead-based paint abatement workers.

c. Demonstrated experience in the implementation and operation of health and safety training for lead-based paint abatement workers.

d. Qualifications of key personnel.

e. The number of courses to be offered, the number of training sites to be used, and the number of workers expected to be trained during the project period.

3. *Project Management (25%)*

a. Ability of the applicant to provide appropriate program staff to the project.

b. Ability to provide space, equipment, staff time and other resources required to perform the applicant's responsibilities in the project.

c. Extent to which the applicant has considered a management plan for the project, including the designation of a qualified program administrator.

4. *Budget (20%)*

A detailed budget should be included that details all costs of the project, as well as the amount that is to be the non-Federal share (at least 30% of the total budget, excluding in-kind contributions). The ability of the applicant to derive a budget estimate that is appropriate to the scope of the project will be considered in the evaluation process. The proposed budget should be clearly justified and consistent with the intended use of the funds.

III. Application Procedures

The following materials must be provided by the applicant:

1. Documentation that proves the nonprofit status of the applicant.

2. A summary of any lead-related courses already being taught and a description of the materials being used to teach those courses.

3. A completed "U.S. EPA Application Kit for Assistance." Copies of this kit can be obtained from Karen Hoffman at the address listed under FOR FURTHER INFORMATION CONTACT.

IV. Acceptable Expenditures

To ensure that funds will be spent on activities which directly result in increased numbers of well trained, lead-based paint abatement workers, the following criteria describe the activities that will and will not be considered for funding. Since EPA is already funding the development of a model course curriculum for workers, the Agency does not wish to fund the development of new courses through this program. The following list is for guidance only. Projects may be funded for other acceptable goals besides those in the list. Award recipients may use the monies for the following:

a. Delivery of lead-based paint abatement worker courses.

b. Delivery of train-the-trainer courses.

c. Enhancement of hands-on training programs.

d. Monitoring and evaluating courses.

e. Limited purchasing of supplies.

f. Speaker's fees (expenses and travel).

g. Slide duplication.

h. Rental of facilities.

i. Limited purchase of audio/visual equipment.

j. Workers' tuition.

k. Limited printing and reproduction of materials and manuals.

l. Transporting workers to training sites.

m. Innovative training systems.

Monies may *not* be used for the following:

a. Development of new training course curricula for workers.

b. Stipends to students for room, board, and salaries.

V. Notification of Selection

Proposals are due no later than July 17, 1992. Proposals shall be no more than 10 pages in length excluding standard forms. Each applicant is requested to provide an original and five copies of the proposal and application kit to EPA. EPA plans to award a total of $2,450,000 through cooperative agreements to eligible nonprofit organizations. In selecting recipients to fund, EPA will not allot all of the available award money to any one group or necessarily fund all of the groups. A minimum of $700,000 of the awarded funds has been designated for labor-management trust funds. The amount of each award will be determined on an individual basis as derived from the proposal. EPA estimates funding 10 to 15 awards through this program ranging in size from approximately $100,000 to $300,000.

Dated: June 24, 1992.

Joseph A. Cara,

Acting Director, Office of Pollution Prevention and Toxics.

[FR Doc. 92–15205 Filed 6–26–92; 8:45 am]

BILLING CODE 6560–50–F

[FRL-4148-2]

Private Investment in Wastewater Treatment Facilities; Implementation of Executive Order 12803 on Infrastructure Privatization

AGENCY: Envrionmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. Environmental Protection Agency is considering making policy and regulatory changes to encourage and facilitate private investment in EPA-funded municipal wastewater treatment facilities. This action is being taken in response to Executive Order 12803 (FR Doc. 92-10495; May 4, 1992).

EPA encourages interested and affected parties to provide comments on this notice and all aspects of this initiative and to propose issues to be considered during the process of policy and regulatory development for this initiative. Some specific issues of particular concern to the Agency appear at the end of this notice.

Executive Order 12803, signed by the President on April 30, 1992, promotes private investment in local infrastructure, including Federally-funded wastewater treatment works. Privatization provides an additional opportunity to communities for addressing the continuing and unmet needs (over $80 billion according to the 1990 EPA Needs Survey Report to Congress published in November 1991) for capital to construct and upgrade wastewater treatment and conveyance systems. Current EPA initiatives encourage public-private partnerships, including privatization, to supplement limited public funds. EPA's implementation of Executive Order 12803 will assist States and communities to find innovative ways to obtain private sector investment and assistance for wastewater system needs while protecting the public interest in Federally-funded facilities.

DATES: Comments on this notice must be received by August 10, 1992.

ADDRESSES: Comments on this notice should be submitted in writing to: Michael Deane, U.S. Environmental Protection Agency (WH-547), 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Michael Deane, at the address above; telephone (202) 260-4060.

SUPPLEMENTARY INFORMATION: Beginning with the Federal Water Pollution Control Act Amendments of 1972 (commonly known as the Clean Water Act; henceforth referred to as "the Act"), the nation's waters and its people have benefitted from a partnership developed by the Federal government, the States, and local communities. During the past two decades this partnership has invested heavily in the construction of wastewater treatment facilities and sewers throughout the country. More than $57 billion of this amount was Federal funds. Competition for scarce public resources at all levels of government has renewed interest in attracting the private sector to the partnership dedicated to clean water.

The Federal government has a long-standing national policy to support States and local governments in financing the construction of wastewater treatment and conveyance facilities. The construction grants program provided this assistance as direct grants from EPA to communities. The Water Quality Act of 1987, which established the goal of restoring the responsibility for financing wastewater treatment facilities to the States and municipalities, phases out the construction grants program and implements the State Revolving Fund (SRF) program with loans as the primary form of assistance.

The States are effectively using the SRF financing program to address many of their water quality needs. However, the funds available from SRFs and other State programs are currently estimated to fall far short of the more than $80 billion in wastewater treatment and conveyance needs identified in the 1990 Needs Survey Report to Congress. To the extent that SRF funds are used for nonpoint source and other eligible activities, the shortfall for construction of wastewater facilities will be even greater. In an effort to reduce this "funding gap," EPA has encouraged all forms of public-private partnerships for wastewater treatment systems.

Increased private financing, ownership, and operation of wastewater treatment and conveyance systems is consistent with Agency priorities that promote State and local environmental management capacity. It provides flexibility to States and municipalities in addressing water quality problems presenting the greatest risk, and supports environmental protection as an integral part of the nation's economic well-being.

EPA intends to develop a practical and effective framework for private investment in EPA-funded wastewater treatment facilities. The framework will be based on the fundamental principles and objectives established by Executive Order 12803:

(a) Adequate and well-maintained infrastructure is critical to economic growth. In order to provide for modernization and expansion of wastewater treatment infrastructure, State and local governments should have greater freedom to privatize facilities financed in whole or in part by the Federal government.

(b) Private enterprise and competitively driven improvements are the foundation of our nation's economy and economic growth. Federal financing of municipal wastewater treatment facilities should not act as a barrier to continued environmental protection and the achievement of economic efficiencies through private market financing or competitive practices, or both.

(c) State and local governments are in the best position to respond to local needs. State and local governments should, subject to assuring continued compliance with Federal requirements that public use of wastewater services be on reasonable and nondiscriminatory terms, have maximum possible freedom to make decisions concerning the maintenance and disposition of their Federally-financed wastewater treatment assets.

(d) User fees are generally more efficient than general taxes as a means to support municipal wastewater treatment. Privatization transactions under the authority of this initiative should be structured so as not to result in unreasonable increases in charges to users.

EPA intends to implement the Executive Order through the use of three elements: (1) define "publicly-owned treatment works;" (2) initiate an inclusionary rule-making process; and (3) conduct public meeting(s).

Definition of Publicly-owned Treatment Works

As part of the Agency's response to the Executive Order's directive to assist States and local governments in their efforts to advance the privatization objectives of the order, EPA intends to develop an appropriate definition of "publicly-owned treatment works" (POTW). The Act authorizes funds for the construction grant and SRF programs to provide financial assistance specifically for the construction of POTWs. While "publicly-owned" is not defined in the Act, in the absence of clear statutory direction or authority, the Agency to date has interpreted the term to mean fully (100 percent) owned by a public entity, allowing for no private equity or ownership interest.

Executive Order 12803 states that infrastructure assets, such as wastewater treatment facilities, that

have received Federal grant assistance may be sold or leased to a private party under specified conditions. Therefore, a precise definition of publicly-owned may not be necessary for full sale of existing contruction grant-funded facilities. However, a definition may still be needed for cases of a partial sale of such facilities. In addition, the issue remains important in considering the eligibility of a facility owned in whole or in part by a private party for any grant assistance that may become available in the future. The definition of publicly-owned also has implications for the ongoing SRF program. EPA's current position prevents a community, for example, from obtaining an SRF loan for its portion of the cost of a joint-ownership public-private partnership for the construction of a municipal wastewater treatment project.

EPA intends to define publicly-owned treatment works through policy, guidance, or regulation, as appropriate, for purposes of the contruction grants and SRF programs. The definition established by the Agency will be consistent with the objectives of Executive Order 12803 and will protect the public purpose of and public interest in POTWs. Considerations by EPA for less than 100 percent ownership may include, but are not limited to, the following:

- Simple majority ownership and control by a public entity;
- Substantial minority ownership by a public entity;
- Effective public oversight and control by a public entity; and
- Public ownership required to *receive* assistance only; public ownership need not be maintained after completion of the grant audit.

Inclusionary Rule-making

Beginning in late July 1992, EPA intends to enter into an inclusionary rule-making process with interested and affected parties to determine procedures allowing for disposition of construction grant-funded wastewater treatment facilities.

Executive Order 12803 directs EPA, to the extent permitted by law, to approve requests to privatize such facilities, consistent with specified criteria. The Executive Order provides guidelines for an appropriate "transfer price" and for distribution of the proceeds from the sale or lease of a construction grant-funded wastewater treatment facility, including recoupment of the Federal investment in wastewater treatment plants.

A primary goal of the inclusionary rule-making will be to establish procedures to be followed by EPA in considering requests for privatization of wastewater facilities. The rule-making process will incorporate the guidelines and criteria set forth in Executive Order 12803. EPA also intends to address in the rule-making any issues raised pursuant to comments on this notice. EPA anticipates relevant issues may include, but are not limited to, the financial feasibility of privatization transactions and technical matters such as the potential impact of private ownership on the industrial pretreatment program and the "domestic sewage exclusion" rule under the Resource Conservation and Recovery Act.

Persons or parties interested in being considered to participate in the inclusionary rule-making should inform the EPA contact of their interest by July 24, 1992.

Public Meeting(s)

Prior to the inclusionary rule-making process, EPA plans to conduct one or more public meetings concerning public-private partnerships for wastewater treatment. The Agency hopes to bring together representatives of government, industry, business, academia, environmental groups, and other interested parties to disucss the environmental and economic aspects of this initiative. Public participation will assist EPA in identifying and assessing relevant issues and determining the level of interest in and potential for private participation in municipal wastewater treatment.

EPA will hold a meeting in Washington, D.C. on Wednesday, July 29, 1991. The meeting will be held at the J.W. Marriott Hotel at 1331 Pennsylvania Avenue NW., Washington, DC 20004. There will be no charge to attend the meeting. Registration will begin at 9 a.m. The meeting will be held between 9:30 a.m. and 4 p.m. Persons or parties interested in participating in a discussion panel or presenting a public statement at the meeting should inform the EPA contact in writing of their interest by July 17, 1992. An agenda for the meeting will be available on request from the EPA contact after July 22, 1992. In the event EPA determines that additional public meetings would be constructive, such meetings will be announced in a subsequent **Federal Register** notice.

Preliminary List of Topics for Comment

EPA intends to address a variety of issues concerning private investment in Federally-funded municipal wastewater treatment facilities and invites written comments on this initiative. In particular, the Agency will consider, and is interested in receiving public input regarding, the following matters and questions:

- As discussed above, the definition of "publicly-owned treatment works" could be an important element of privatization transactions. What is an appropriate definition of "publicly-owned treatment works" for purposes of implementing the objectives of Executive Order 12803?
- Some privatization transactions may include only a portion of a wastewater treatment system. For example, the treatment works may be sold to a private entity while the public sector retains the collection system. A private party may purchase only the sludge processing portion of a treatment facility. In such cases, how is continued performance and the overall integrity of the system ensured (e.g., appropriate flow rates to the treatment plant, efficient use of treatment and storage capacity to minimize combined sewer overflows)?
- Many wastewater facilities that received construction grant funding, and are therefore subject to Executive Order 12803, also received or may receive SRF assistance. What are the implications for repayment of an SRF loan if a facility constructed with SRF assistance were to be sold or leased under authority of the order? Are there limitations for a partially privatized facility in receiving SRF assistance? If there are limitations, would they apply to all facilities receiving SRF assistance or only those deemed to be "equivalency" projects (i.e., for program compliance purposes, deemed to have received Federal assistance)? Are there other aspects of the SRF program that may be affected by privatization of municipal wastewater facilities?
- The potential interest of public and private parties in considering or entering into privatization transactions may depend in part on the procedures that EPA establishes for the sale or lease of construction grant-funded facilities. The procedures should facilitate, not hinder, appropriate transactions. To that effect, the Agency needs to know: What makes privatization of a municipal wastewater treatment system attractive to the public sector (in terms of economics, environmental results, political/institutional factors, etc.)? To the system's users? To the private sector? To what extent could the procedures established to implement the Executive Order result in additional burdens which may discourage privatization? Are there additional factors not addressed by Executive Order 12803

that limit interest in wastewater privatization?

• A private entity that owns a municipal wastewater treatment facility could experience financial difficulties, including insolvency or bankruptcy. Section 4(b)(i) of Executive Order 12803 requires that a legally enforceable agreement or a market or regulatory mechanism exists to ensure that in such a situation, the facility continues to serve its originally authorized purposes, as long as needed for those purposes. What mechanism(s) will be effective in implementing this provision? How can the users and operating integrity of the system be protected?

• Executive Order 12803 states that "[p]rivatization transactions should be structured so as not to result in unreasonable increases in charges to users" (section 2(d)). Section 4(b)(ii) of the order also stipulates that a mechanism must be in place to ensure that "user charges will be consistent with any current Federal conditions that protect users * * *" What issues should be considered in implementing these provisions of the order? How should the statutory requirements for construction grant and SRF equivalency projects calling for adequacy and proportionality of user charges be factored into EPA's implementation of this program? What is the potential impact of privatization on wastewater system user charges? Would, or should, private municipal wastewater systems be State-regulated utilities?

• EPA's wastewater programs encompass many elements in addition to financing the construction of treatment works. These include issuing and enforcing NPDES permits and running the industrial toxics pretreatment program. Private ownership of municipal wastewater treatment systems may have implications for these other program elements. What is the impact of privatization on the NPDES permitting and enforcement process (e.g., requirements for municipal and private discharges currently differ. What technology-based permit limits would be applicable? If a publicly-owned facility is privatized, would its permit have to be reissued? What compliance/enforcement actions would be appropriate if the facility as built cannot meet revised permit conditions?)? What is the impact of privatization on development, implementation, and enforcement of industrial toxics pretreatment requirements and other aspects of the pretreatment program (e.g., how will the municipality serve in a regulatory capacity vis-a-vis indirect discharges if its wastewater treatment facility has been privatized? Would the municipality retain its responsibilities to enforce the pretreatment program or could it shift some or all of the responsibilities to the private party?)? Also, what is the impact of privatization on the domestic sewage exclusion under the Resource Conservation and Recovery Act (e.g., should a wastewater treatment facility which is no longer publicly owned be entitled to the domestic sewage exclusion?)?

• Section 1(d)(ii) of the Order calls for Federal valuation of the asset in certain instances. How should the value of a wastewater treatment facility be estabished by the Federal government for purposes of sale or lease?

EPA also invites the public to identify and comment on additional items for consideration by the Agency in implementing Executive Order 12803.

Dated: June 18, 1992.

Martha G. Prothro,

Acting Assistant Administrator for Water.

Christian R. Holmes,

Acting Assistant Administrator for Administration and Resources Management.

[FR Doc. 92–15112 Filed 6–26–92; 8:45 am]

BILLING CODE 6560–50–M]

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

Dated: June 22, 1992.

The Federal Communications Commission has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Copies of this submission may be purchased from the Commission's copy contractor, Downtown Copy Center, 1990 M Street NW., suite 640, Washington, DC 20036, (202) 452–1422. For further information on this submission contact Judy Boley, Federal Communications Commission, (202) 632–7513. Persons wishing to comment on this information collection should contact Jonas Neihardt, Office of Management and Budget, room 3235 NEOB, Washington, DC 20503, (202) 395–4814.

OMB Number: None.

Title: EBS Closed Circuit Test (CCT) Survey.

Form Number: FCC Form 716.

Action: New collection.

Respondents: Businesses or other for-profit (including small businesses).

Frequency of Response: On occasion reporting.

Estimated Annual Burden: 1,600 responses; .084 hours average burden per response; 134 hours total annual burden.

Needs and Uses: The National-level Emergency Broadcast System (EBS) provides the President, via thousands of non-government broadcast stations, a ready-available means of emergency communications with the American people. Section 73.962 of the FCC rules requires that the National-level EBS be tested no less than once every three months. The date and time are selected by the White House, Federal Emergency Management Agency (FEMA), and industry representatives, and coordinated by the FCC. FEMA coordinates the activities for the government communications facilities. The television networks (ABC–TV, CBS–TV, NBC–TV and PSB(TV)) and cable systems do not participate in the CCT due to the lack of available program time required to conduct the test. Section 73.962(f) states the FCC may request a report from the broadcast stations about the effectiveness of each test. The purpose of the Closed Circuit Test (CCT) is to simulate activation and termination of the national level interconnection arrangements of the Emergency Broadcast System, to provide training of personnel, and to exercise procedures and equipment. Also, the test evaluates the effectiveness of the EBS to provide programming, originated from the President, to broadcast stations throughout the United States. Once received by broadcast stations, the test program is not broadcast over the air to the public, hence the term "Closed circuit". The information will be used by the EBS staff to develop a report evaluating a random closed circuit test of the EBS facilities and participating personnel. The report will be distributed to the White House, FEMA and industry. Accurate recordkeeping of the data is vital in determining the location and nature of possible equipment failure on the National-level EBS. Furthermore, since the National-level EBS is solely for the use of the President, its proper operation must be assured.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 92–15186 Filed 6–26–92; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Information Collection Submitted to OMB for Review

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of information collection submitted to OMB for review and approval under the Paperwork Reduction Act of 1980.

SUMMARY: In accordance with requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), the FDIC hereby gives notice that it has submitted to the Office of Management and Budget a request for OMB review of the information collection system described below.

Type of Review: New collection.
Title: Activities and Investments of Insured State Banks.
Form Number: None.
OMB Number: Not applicable.
Expiration Date of OMB Clearance: Not applicable.
Respondents: Insured state banks wishing to engage in activities not permissible for national banks.
Frequency of Response: On occasion.
Number of Respondents: 2,927.
Number of Responses per Respondent: 1.
Total Annual Responses: 2,927.
Average Number of Hours per response: 13.1.
Total Annual Burden Hours: 38,428.
OMB Reviewer: Gary Waxman, (202) 395–7340, Office of Mangement and Budget, Paperwork Reduction Project 3064–0000, Washington, DC 20503.
FDIC Contact: Steven F. Hanft, (202) 898–3907, Office of the Executive Secretary, room F–400, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.
Comments: Comments on this collection of information are welcome and should be submitted before August 28, 1992.

ADDRESSES: A copy of the submission may be obtained by calling or writing the FDIC contact listed above. Comments regarding the submission should be addressed to both the OMB reviewer and the FDIC contact listed above.

SUPPLEMENTARY INFORMATION: With certain exceptions, insured state banks must obtain FDIC approval to engage in activities not permissible for national banks.

Dated: June 23, 1992.

Federal Deposit Insurance Corporation.
Hoyle L. Robinson,
Executive Secretary.

[FR Doc. 92–15146 Filed 6–26–92; 8:45 am]
BILLING CODE 6714–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Open Meeting; Board of Visitors for the National Fire Academy

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice of open meeting.

SUMMARY: In accordance with section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. app. 2, FEMA announces the following committee meeting:

NAME: Board of Visitors for the National Fire Academy.

DATES OF MEETING: July 21–22, 1992.

PLACE: National Emergency Training Center, National Fire Academy, Building G, Conference Room, Emmitsburg, MD 21727.

TIME: July 21, 1992, 9 a.m.–5 p.m., July 22, 1992, 9 a.m.–5 p.m.

PROPOSED AGENDA: July 21: Quarterly meeting—old business. July 22: 9 a.m.–12 noon—Agenda completion; 1 p.m.–5 p.m.—Joint meeting with the Board of Visitors for the Emergency Management Institute.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public with seating available on a first-come, first-served basis. Members of the general public who plan to attend the quarterly meeting should contact the Office of the Superintendent, National Fire Academy, U.S. Fire Administration, 16825 South Seton Avenue, Emmitsburg, MD 21727, (301) 447–1117, on or before July 6, 1992.

Minutes of the meeting will be prepared and will be available for public viewing in the Office of the Administrator, U.S. Fire Administration, Federal Emergency Management Agency, Emmitsburg, MD 21727. Copies of the minutes will be available upon request 30 days after the meeting.

Dated: June 11, 1992.

Olin L. Greene,
U.S. Fire Administrator.

[FR Doc. 92–15176 Filed 6–26–92; 8:45 am]
BILLING CODE 6718–01–M

[FEMA–945–DR]

New Mexico; Notice of Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

EFFECTIVE DATE: June 18, 1992.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of New Mexico (FEMA–945–DR), dated June 18, 1992, and related determinations.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated June 18, 1992, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the State of New Mexico, resulting from severe thunderstorms, hail, and flooding on May 22, 1992, through May 25, 1992, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act ("the Stafford Act"). I, therefore, declare that such a major disaster exists in the State of New Mexico.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance and Public Assistance in the designated areas. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Graham Nance of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the folloiwng areas of the State of New Mexico to have been affected adversely by this declared major disaster:

Lea County for Individual Assistance and Public Assistance.
(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Wallace E. Stickney,

Director.

[FR Doc. 92-15154 Filed 6-26-92; 8:45 am]
BILLING CODE 6718-02-M

FEDERAL MARITIME COMMISSION

[Docket No. 92-40]

Interstate Grain Corp. v. Port of Corpus Christi Authority of Nueces County; Filing of Complaint and Assignment

Served: June 23, 1992.

Notice is given that a complaint filed by Interstate Grain Corporation ("Complainant") against Port of Corpus Christi Authority of Nueces County ("Respondent") was served June 23, 1992. Complainant alleges that Respondent has violated sections 10 (b)(11), (b)(12), (d)(1) and (d)(3) of the Shipping Act of 1984, 46 U.S.C. app. 1709 (b)(11), (b)(12), (d)(1) and (d)(3), by establishing a wharfage charge affecting Complainant while not imposing similar effects on the Corpus Christi Public Elevator and increasing that wharfage charge by 267 percent.

This proceeding has been assigned to Administrative Law Judge Charles E. Morgan ("Presiding Officer"). Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the Presiding Officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record. Pursuant to the further terms of 46 CFR 502.61, the initial decision of the Presiding Officer in this proceeding shall be issued by June 23, 1993, and the final decision of the Commission shall be issued by October 21, 1993.

Joseph C. Polking,

Secretary.

[FR Doc. 92-15177 Filed 6-26-92; 8:45 am]
BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Brooke Holdings, Inc.; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 23, 1992.

A. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Brooke Holdings, Inc., Jewell, Kansas; to acquire, through its subsidiary, Gypsum Valley Agency, the property and casualty insurance agency assets of First State Management Corp., Salina, Kansas, and thereby engage in the sale of insurance, except life insurance and annuities, pursuant to § 225.25(b)(8)(vi) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, June 23, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-15185 Filed 6-26-92; 8:45 am]
BILLING CODE 6210-01-F

Carolina First BancShares, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than July 23, 1992.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. Carolina First BancShares, Inc., Lincolnton, North Carolina; to acquire 100 percent of the voting shares of Cabarrus Bank of North Carolina, Inc., Concord, North Carolina, successor to Cabarrus Savings Bank, Inc., Concord, North Carolina.

2. Regency Bancshares, Inc., Hickory, North Carolina; to become a bank holding company by acquiring 100 percent of the voting shares of Davidson Savings Bank, Inc., SSB, Lexington, North Carolina, and First Savings Bank, Inc., SSB, Hickory, North Carolina, both *de novo* banks.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. Capital Bancorporation, Inc., Cape Girardeau, Missouri; to acquire 100

percent of the voting shares of Magna Bank of Southern Missouri, Ozark, Missouri.

C. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Marquette Bancshares, Inc., Minneapolis, Minnesota; to acquire 91.11 percent of the voting shares of Marquette Bank Brooklyn Park, Brooklyn Park, Minnesota; 97.5 percent of the voting shares of Marquette Bank Brookdale, Brooklyn Center, Minnesota; 94 percent of the voting shares of Marquette Bank Cannon Falls, Cannon Falls, Minnesota; 100 percent of the voting shares of Marquette Bank Golden Valley, Golden Valley, Minnesota; 94.5 percent of the voting shares of Marquette Bank Mound, Mound, Minnesota; 96.5 percent of the voting shares of Marquette Bank New Hope, New Hope, Minnesota; 76.72 percent of the voting shares of Marquette Bank Shakopee, N.A., Shakopee, Minnesota; 100 percent of the voting shares of Monticello Bancshares, Inc., Monticello, Minnesota, which owns 86.73 percent of Wright County State Bank, Monticello, Minnesota; 78.92 percent of the voting shares of Lakeville Financial Services, Inc., Minneapolis, Minnesota, which owns 92.13 percent of Marquette Bank Lakeville, Lakeville, Minnesota; an additional 46.87 percent, totalling 93.77 percent, of the voting shares of Hutchinson Bancorp, Inc., Hutchinson, Minnesota, which owns 100 percent of Marquette Bank Hutchinson, N.A., Hutchinson, Minnesota; and 100 percent of the voting shares of Marquette Bank New Prague, New Prague, Minnesota.

D. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Catherine Stuart Schmoker Family Partnership, Lincoln, Nebraska, James Stuart, Jr., Family Partnership, Lincoln, Nebraska, The Scott Stuart Family Partnership, Lincoln, Nebraska, Stuart Family Partnership, Lincoln, Nebraska, and First Commerce Bancshares, Inc., Lincoln, Nebraska; to acquire an additional 10 percent, totalling 18.5 percent, of the voting shares of Lincoln Bank South, Lincoln, Nebraska.

Board of Governors of the Federal Reserve System, June 23, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-15184 Filed 6-26-92; 8:45 am]

BILLING CODE 6210-01-F

Scottie E. Peterson; Change in Bank Control Notice

Acquisition of Shares of Banks or Bank Holding Companies

The notificant listed below has applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notice is available for immediate inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for the notice or to the offices of the Board of Governors. Comments must be received not later than July 20, 1992.

A. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Scottie E. Peterson, Middle River, Minnesota; to acquire 50 percent of the voting shares of Northern Plains Bancshares, Inc., Hawley, Minnesota, and thereby indirectly acquire First National Bank, Middle River, Minnesota.

Board of Governors of the Federal Reserve System, June 23, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-15183 Filed 6-26-92; 8:45 am]

BILLING CODE 6210-01-F

GENERAL SERVICES ADMINISTRATION

[Wildlife Order 181; 4-D-TN-609D]

Federal Property Resources Service; Portion, Cordell Hull Lock and Dam Project, Jackson County, Tennessee; Transfer of Property

Pursuant to section 2 of Public Law 537, 80th Congress, approved May 19, 1948 (16 U.S.C. 667b), notice is hereby given that:

1. By deed from the General Services Administration dated May 27, 1992, the property, consisting of 822.26 acres of unimproved land, known as a portion of Cordell Hull Lock and Dam Project, Jackson County, Tennessee, has been transferred to the Tennessee Wildlife Resources Agency, State of Tennessee.

2. The above described property was conveyed for wildlife conservation in accordance with the provisions of section 1 of said Public Law 80-537 (16 U.S.C. 667b), as amended, by Public Law 92-432.

Dated: June 18, 1992.

Earl E. Jones,

Commissioner, Federal Property Resources Service.

[FR Doc. 92-15122 Filed 6-26-92; 8:45 a.m.]

BILLING CODE 6820-96-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

New Legend on Certain Social Security Number Cards

AGENCY: Social Security Administration, HHS.

ACTION: Notice.

SUMMARY: In accordance with the provisions of section 101 of the Immigration Reform and Control Act of 1986, the delegation of authority from the President to the Secretary of Health and Human Services (the Secretary) dated February 10, 1992, and the redelegation from the Secretary to the Commissioner of Social Security on March 17, 1992 (57 FR 9262), this notice announces that the Social Security Administration (SSA) plans to add a legend to the Social Security number (SSN) card issued to an individual whom the Immigration and Naturalization Service (INS) determines to be an alien who entered the United States (U.S.) on a temporary basis and is authorized to work. The addition of this legend would assist employers in identifying individuals with temporary authorization to work in the U.S.

EFFECTIVE DATE: June 29, 1992.

FOR FURTHER INFORMATION CONTACT: Lynn Kuban, Social Security Administration, 3-E-26 Operations Building, 6401 Security Boulevard, Baltimore, MD 21235; (410) 965-7908.

SUPPLEMENTARY INFORMATION: Section 101 of the Immigration Reform and Control Act of 1986 (Pub. L. 96-603 enacted November 6, 1986) amended Chapter 8 of title II of the Immigration and Nationality Act by adding a new section 274A, which is codified at 8 U.S.C. 1324a. This new section requires employers to verify employment authorization of an alien and provides

that one of the documents evidencing employment authorization is the individual's SSN card. See 8 U.S.C. 1324a(a)(1) and (b)(1)(C).

In addition, section 1324a(d)(3)(A) requires that certain committees of Congress must be notified 1 year prior to a "major change" in the employment verification system and notification must be published in the Federal Register. The insertion of a new legend on the SSN card is such a major change. Furthermore, this change in the SSN card cannot be implemented unless Congress specifically provides funds for the project. See 8 U.S.C. 1324a(d)(3)(C)(ii), (D)(iii), and (E). Congress has appropriated the funds for this project. See Public Law 102-170 (November 26, 1991), 105 Stat. 1121.

In 1988, the General Accounting Office recommended that SSA annotate SSN cards for aliens authorized to work in the U.S. on a temporary basis. This would assist employers in identifying individuals with temporary work authorization. Currently, aliens with temporary work authorization are given SSN cards which do not indicate that the aliens' authorization to work might be restricted. If they remain in the U.S. after the INS work authorization expires, they might continue to obtain employment illegally using the SSN card.

SSA plans, with INS concurrence, to add a legend to the SSN cards issued to individuals determined by INS to be aliens admitted to the U.S. on a temporary basis with work authorization.

SSA notified the appropriate Congressional Committees on July 25, 1989, of our plan to add a new legend to the SSN card. The new legend will read: "VALID FOR WORK ONLY WITH INS AUTHORIZATION." An SSN card with this legend would be used in conjunction with work authorization documents issued to the individual by INS to demonstrate to an employer that the individual is authorized to work in the U.S.

The legend will be placed on SSN cards issued to affected individuals whose SSN applications are accepted for processing on or after the effective date shown in this notice.

Dated: June 18, 1992.

Gwendolyn S. King,

Commissioner of Social Security.

[FR Doc. 92-15181 Filed 6-26-92; 8:45 am]

BILLING CODE 4190-29-M

[Social Security Ruling SSR 92-7c.]

Overpayments and Underpayments—Payment Errors Calculated (Netted) from the First Payment Error to the Month the Intitial Determination of Overpayment or Underpayment is Made

AGENCY: Social Security Administration, HHS.

ACTION: Notice of Social Security Ruling.

SUMMARY: In accordance with 20 CFR 422.406(b)(1), the Commissioner of Social Security gives notice of Social Security Ruling 92-7c. This Ruling is based on the U.S. Supreme Court decision in *Sullivan* v. *Everhart*. The Court ruled that the Secretary's "netting" regulations, which calculate the difference between the amount due and the amount paid for the period beginning with the first month for which there was a payment error and ending with the month the initial determination of overpayment or underpayment is made, are valid because they are based on a permissible construction of the Social Security Act and are not arbitrary and capricious.

EFFECTIVE DATE: June 29, 1992.

FOR FURTHER INFORMATION CONTACT: Joanne K. Castello, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965-1711.

SUPPLEMENTARY INFORMATION: Although we are not required to do so by 5 U.S.C. 552 (a)(1) and (a)(2), we are publishing this Social Security Ruling in accordance with 20 CFR 422.406(b)(1).

Social Security Rulings make available to the public precedential decisions relating to the Federal old-age, survivors, disability, supplemental security income, and black lung benefits programs. Social Security Rulings may be based on case decisions made at all administrative levels of adjudication, Federal court decisions, Commissioner's decisions, opinions of the Office of the General Counsel, and other policy interpretations of the law and regulations.

Although Social Security Rulings do not have the force and effect of the law or regulations, they are binding on all components of the Social Security Administration, in accordance with 20 CFR 422.406(b)(1), and are to be relied upon as precedents in adjudicating other cases.

If this Social Security Ruling is later superseded, modified, or rescinded, we will publish a notice in the Federal Register to that effect.

(Catalog of Federal Domestic Assistance Programs Nos. 93.802 Social Security—Disability Insurance; 93.803 Social Security—Retirement Insurance; 93.803 Social Security—Survivor's Insurance; 93.806 Special Benefits for Disabled Coal Miners; 93.807 Supplemental Security Income)

Dated: June 15, 1992.

Gwendolyn S. King,

Commissioner of Social Security.

Sections 202(a), 204(a), 204(a)(1), 204(a)(1)(A) and (B), 204(b), 205(a), 1611(c)(1), 1631(b)(1) (A) and (B) of the Social Security Act (42 U.S.C. 402(a), 404(a), 404(a)(1), 404(a)(1) (A) and (B), 404(b), 1382(c)(1), 1383(b)(1) (A) and (B)) Overpayments and Underpayments—Payment Errors Calculated (Netted) From the First Payment Error to the Month the Initial Determination of Overpayment or Underpayment is made 20 CFR 404.502-404.504, 404.902, 416.538, 416.558(a), and 416.1402 *Sullivan* v. *Everhart*, 494 U.S. 83 (1990).

This Ruling concerns the validity of the "netting" regulations, under which the Secretary calculates the difference between the amount due and the amount paid for the period beginning with the first month for which there was a payment error and ending with the month the initial determination of overpayment or underpayment is made.

In this case, recipients of old-age, survivors, and disability insurance benefits, and supplemental security income payments brought suits against the Secretary seeking declaratory judgment that the netting regulations were facially invalid because (1) they were contrary to the Social Security Act (the Act) and (2) they violated beneficiaries' rights to procedural due process. (The Supreme Court found it unnecessary to address the issue of procedural due process as it was not reached by the Court of Appeals.) The United States District Court for the District of Colorado granted summary judgment on the ground that the regulations violated the Act. The Secretary appealed to the United States Court of Appeals for the Tenth Circuit which affirmed the district court decision. The Supreme Court granted *certiorari*.

The Supreme Court held that the netting regulations are based on a permissible construction of the Act because the Act nowhere specifies that the correctness of payments must be determined on a month-by-month basis. Also, the Court held that netting is not inconsistent with the "adjustment" or "recovery" provisions of the Act which prohibit adjustment of payments to or recovery from any person who is without fault unless there is an opportunity for a waiver hearing. The

Court reasoned that netting is not "adjustment" or "recovery" of benefits but the calculation of whether more or less than the correct amount of payment has been made. The Court also held that the netting regulations are not rendered arbitrary and capricious by including the period running from the first discovery of error to the initial determination that error was committed in the netting calculation. Accordingly, the Supreme Court reversed the judgment of the Court of Appeals and remanded the case for further proceedings consistent with this opinion.

SCALIA, Supreme Court Justice:

If the Secretary of Health and Human Services determines that a beneficiary has received "more or less than the correct amount of payment," the Social Security Act requires him to effect "proper adjustment or recovery," subject to certain restrictions in the case of overpayments. This case requires us to decide whether the Secretary's so-called "netting" regulations, under which he calculates the difference between past underpayments and past overpayments, are merely a permissible method of determining whether "more or less than the correct amount of payment" was made, or are instead, as to netted-out overpayments, an "adjustment or recovery" that must comply with procedures for recovery of overpayments imposed by the Act.

Two statutory benefit programs established by the Social Security Act (Act) are involved: The Old-Age, Survivors, and Disability Insurance program (OASDI), 53 Stat. 1362, as amended, 42 U.S.C. § 401 *et seq.* (1982 ed. and Supp. IV), and the Supplemental Security Income program (SSI), 86 Stat. 1465, 42 U.S.C. § 1381 *et seq.* (1982 ed. and Supp. IV). Millions of Americans receive benefits under these programs; inevitably, some beneficiaries occasionally receive more than their entitlement, and others less. The OASDI program provides the following procedure for correcting such errors:

"Whenever the Secretary finds that more or less than the correct amount of payment has been made to any person under this subchapter, proper adjustment or recovery shall be made, under regulations prescribed by the Secretary, as follows:

"(A) With respect to payment to a person of more than the correct amount, the Secretary shall decrease any payment under this subchapter to which such overpaid person is entitled, or shall require such overpaid person or his estate to refund the amount in excess of the correct amount, or shall decrease any payment under this subchapter payable to his estate or to any other person on the basis of the wages and self-employment income which were the basis of the payments to such overpaid person, or shall apply any combination of the foregoing.* * *

"(B) With respect to payment to a person of less than the correct amount, the Secretary shall make payment of the balance of the amount due such underpaid person.* * *" Act § 204(a)(1)(A), (B); 42 U.S.C. § 404(a)(1)(A), (B) (1982 ed., Supp. IV).

As to overpayments, the Act provides:

"In any case in which more than the correct amount of payment has been made, there shall be no adjustment of payments to, or recovery by the United States from, any person who is without fault if such adjustment or recovery would defeat the purpose of this subchapter or would be against equity and good conscience." Act § 204(b); 42 U.S.C. 404(b) (1982 ed.).

The provisions regulating payment errors in the SSI program are substantially similar.* *Califano v. Yamasaki*, 442 U.S. 682, 697, 99 S.Ct. 2545, 2555, 61 L.Ed.2d 176 (1979), held that the limitation on adjustment or recovery of overpayments imposed by § 204(b) of the Act gives recipients the right to an oral hearing at which they may attempt to convince the Secretary to waive recoupment.

In the provisions set forth above, the Act contemplates that the Secretary will "fin[d] [whether] more or less than the correct amount" of payment has been made. Elsewhere, it confers upon the Secretary general authority to "make rules and regulations and to establish procedures, not inconsistent with the provisions of this subchapter, which are necessary or appropriate to carry out such provisions," Act § 205(a), 42 U.S.C. § 405(a) (1982 ed.); see also Act § 1631(d)(1), 42 U.S.C. § 1383(d)(1) (1982 ed., Supp. IV) (SSI). Pursuant to that authority, the Secretary promulgated the regulations at issue here. The SSI regulation provides:

"The amount of an underpayment or overpayment is the difference between the amount paid to a recipient and the amount of payment actually due such recipient for a given period. An overpayment or underpayment period begins with the first month for which there is a difference between the amount paid and the amount actually due for that month. The period ends with the month the initial determination of overpayment or underpayment is made." 20 CFR § 416.538 (1989).

The OASDI regulation unhelpfully provides that "[t]he amount of an overpayment or underpayment is the difference between the amount paid to the beneficiary and the amount of the payment to which the beneficiary was actually entitled," 20 CFR § 404.504 (1989), but the Secretary has interpreted this as embodying the methodology set forth in the SSI regulation. Dept. of Health and Human Services, Social Security Ruling 81–19a (cum. ed. 1981).

Two hypotheticals will illustrate the operation of the netting regulations. Mr. A, entitled to $100 per month, is erroneously paid $80 in January and erroneously paid $150 in February. In March, the Secretary determines that these payments were incorrect, nets the errors (*i.e.*, calculates the difference between the underpayment and the overpayment), and seeks to recover the net overpayment of $30. Mrs. B, also entitled to $100 per month, receives $50 in April and $110 in May. In June, the Secretary makes the incorrect payment determination, nets the errors, and pays out $40. In neither case may the beneficiaries seek to have the underpayment and the overpayment treated separately: Mr. A could not demand $20 for January and seek a waiver of the recoupment of $50 for February, and Mrs. B could not demand $50 for April and seek a waiver for the $10 in May.

In the present case, the Secretary made both underpayments and overpayments to each of the respondents, and netted those errors pursuant to the regulations. He determined that three respondents (the original plaintiffs) received net underpayments, and paid that net amount. The other respondents (intervenors below) received net overpayments, and the Secretary offered them hearings to determine whether recoupment should be waived as to the net overpayment. The plaintiffs (later joined by the intervenors) filed this suit under §§ 205(g) and 1631(c)(3) of the Act, 42 U.S.C. 405(g), 1383(c)(3) (1982 ed.), in the United States District Court for the District of Colorado. They claimed that the netting regulations were facially invalid because (1) they were contrary to the Act and (2) they violated beneficiaries' rights to procedural due process. The District Court granted respondents' motion for summary judgment on the former ground, and the Court of Appeals for the Tenth Circuit affirmed in all relevant respects. 853 F.2d 1532 (1988). The court noted that two other Courts of Appeals had upheld the netting regulations against similar attacks. *Id.*, at 1536–1537 (citing *Lugo v. Schweicker*, 776 F.2d 1143 (CA3 1985), and *Webb v. Bowen*, 851 F.2d 190 (CA8 1988)).

We granted certiorari. 490 U.S. _____, 109 S.Ct. 2098, 104 L.Ed.2d 660.

II

Our mode of reviewing challenges to an agency's interpretation of its governing statute is well established: We first ask "whether Congress has directly spoken to the precise question at issue. If the intent of Congress is clear, that is the end of the matter; for the court, as well as the agency, must give effect to the unambiguously expressed intent of Congress." *Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837, 842–843, 104 S.Ct. 2778, 2781, 81 L.Ed.2d 694 (1984). "In ascertaining the plain meaning of the statute,

* "(A)" Whenever the Secretary finds that more or less than the correct amount of benefits has been paid with respect to any individual, proper adjustment or recovery shall, subject to the succeeding provisions of this subsection, be made by appropriate adjustments in future payments to such individual or by recovery from such individual or his eligible spouse (or from the estate of either) or by payment to such individual or his eligible spouse.* * *

"(B) The Secretary (i) shall make such provision as he finds appropriate in the case of payment of more than the correct amount of benefits with respect to an individual with a view to avoiding penalizing such individual or his eligible spouse who was without fault in connection with the overpayment, if adjustment or recovery on account of such overpayment in such case would defeat the purposes of this subchapter, or be against equity and good conscience, or (because of the small amount involved) impede efficient or effective administration of this subchapter.* * *" Act 1631(b)(1)(A), (B); 42 U.S.C. 1383(b)(1)(A), (B) (1982 ed., Supp. IV).

the court must look to the particular statutory language at issue, as well as the language and design of the statute as a whole." *K Mart Corp. v. Cartier, Inc.*, 486 U.S. 281, 291, 108 S.Ct. 1811, 1817, 100 L.Ed.2d 313 (1988); see also *Mead Corp. v. Tilley*, 490 U.S. _____, _____, 109 S.Ct. 2156, _____, 104 L.Ed.2d 796 (1989). But "if the statute is silent or ambiguous with respect to the specific issue, the question for the court is whether the agency's answer is based on a permissible construction of the statute," *Chevron, supra*, 467 U.S. at 843, 104 S.Ct., at 2781, that is, whether the agency's construction is "rational and consistent with the statute." *NLRB v. United Food & Commercial Workers*, 484 U.S. 112, 123, 108 S.Ct. 413, 420, 98 L.Ed.2d 429 (1987). These principles apply fully to the Secretary's administration of the Act. See *Schweiker v. Gray Panthers*, 453 U.S. 34, 43, 101 S.Ct. 2633, 2639, 69 L.Ed.2d 460 (1981); *Batterton v. Francis*, 432 U.S. 416, 425, 97 S.Ct. 2399, 2405, 53 L.Ed.2d 448 (1977).

A

We first consider whether the Act speaks directly to the validity of the netting regulations. Two provisions are relevant: a general authorization, and a specific limitation. First, the Act authorizes the Secretary to determine whether "more or less than the correct amount" has been paid. 42 U.S.C. §§ 404(a), 1383(b)(1)(A) (1982 ed., Supp. IV). The Act does not define the term "correct amount." It assuredly *could* be construed to refer to the amount properly owing *for a given month*. If that were the only possible interpretation, respondents would prevail, since the netting regulations ascertain the correct amount for a longer time period. But the Act does not foreclose a more expansive interpretation of "correct amount," viz., the amount properly owing *as of the date of the determination*. Although the Act elsewhere describes OASDI and SSI as monthly benefit programs, *e.g.*, Act § 202(a), 42 U.S.C. § 402(a) (1982 ed., Supp. IV); Act § 1611(c)(1), 42 U.S.C. § 1382(c)(1) (1982 ed., Sup. IV), it nowhere specifies that the correctness of payments must be determined on a month-by-month basis.

The fuller context of the OASDI provisions suggests that Congress, in authorizing the Secretary to determine whether the "correct amount" was paid, did not prohibit him from making that determination for more than a monthly time period. The Act authorizes a determination of whether "the correct amount of *payment* has been made," 42 U.S.C. § 404(a)(1), and mandates adjustments "[w]ith respect to *payment* to a person of more than the correct amount," § 404(a)(1)(A), and "[w]ith respect to *payment* to a person of less than the correct amount," § 404(a)(1)(B). If Congress had in mind only shortfalls or excesses in individual monthly payments, rather than in the overall payment balance, it would have been more natural to refer to "the correct amount of *any payment*," and to require adjustment "with respect to *any payment* * * * of less [or more] than the correct amount." This terminology is used elsewhere in § 204(a)(1)(A), whenever individual monthly payments are at issue ("the Secretary shall decrease *any payment* under this subchapter to which such overpaid person is entitled"; "shall decrease *any payment* under this subchapter payable to his estate"). 42 U.S.C. § 404(a)(1)(A) (emphases added). Moreover, the provision governing adjustment of overpayments to a deceased beneficiary seems to contemplate computation on a multi-payment basis ("the Secretary * * * shall decrease any payment under this subchapter payable to his estate or to any other person on the basis of the wages and self-employment income which were the basis *of the payments to such overpaid person*") *Ibid.* (emphasis added).

The Act's provisions governing SSI are slightly different, but in no way contradict the Secretary's position. They authorize the Secretary to determine whether "more or less than the correct amount of *benefits* has been paid," 42 U.S.C. 1383(b)(1)(A) (1982 ed., Supp. IV) (emphasis added). Had this read "more or less than the correct amount of *any benefit*" it might support respondents' position, but as written it at least bears (if it does not indeed favor) the interpretation that more than a single monthly benefit is at issue.

Respondents nevertheless maintain, as did the Court of Appeals, that another provision of the Act directly precludes the Secretary from netting underpayments and overpayments. They point to § 204(b), 42 U.S.C. 404(b) (1982 ed.), which provides: "In any case in which more than the correct amount of payment has been made, there shall be no adjustment of payments to, or recovery by the United States from, any person who is without fault if such adjustment or recovery would defeat the purpose of this subchapter or would be against equity and good conscience." See also Act § 1631(b)(1)(B), 42 U.S.C. 1383(b)(1)(B) (1982 ed., Supp. IV) (SSI). Respondents argue that by using the phrase "adjustment or recovery," Congress intended to subject to this requirement all collection methods, including the set off effected by netting. They claim this broad meaning is given to the words "adjustment" and "recovery" by other Social Security regulations (*e.g.*, 20 CFR 404.502–404.503 (1989)), common usage (*e.g.*, Webster's Third New International Dictionary 27, 1898 (1981) (hereinafter Webster's)), and general legal usage (*e.g., United States v. Burchard*, 125 U.S. 176, 8 S.Ct. 832, 31 L.Ed. 662 (1838)). Under this interpretation, when the agency calculates the difference between, or nets, Mr. A's $20 underpayment and his $50 overpayment, see *supra*, at 963, it has engaged in "adjustment or recovery," but without complying with the restrictions on "adjustment or recovery" that the Act imposes.

In our view, however, with this provision as with those discussed earlier, respondents have established at most that the language may bear the interpretation they desire—not that it cannot bear the interpretation adopted by the Secretary. "Adjustment" *can* have the more limited meaning (which the Secretary favors) of "an increase or decrease" of payments (Webster's 27), and "recovery" *can* have the more limited meaning of "get[ting] back" payments already made (see *id.*, at 1898 ("recover")). Moreover, other provisions of the Act support this limited meaning. It is at least reasonable, if not necessary, to read the phrase "adjustment or recovery" in § 204(b) *in pari materia* with the identical phrase in § 204(a)(1). The latter section directs the Secretary, if he finds that incorrect payment has been made, to make "proper adjustment or recovery * * * *as follows*." In the case of overpayment, he shall "decrease any payment under this subchapter to which such overpaid person is entitled, or shall require such overpaid person or his estate to refund the amount in excess of the correct amount. * * * *". 42 U.S.C. 404(a)(1)(A) (1982 ed., Supp. IV). As to SSI, "adjustment or recovery shall * * * be made by appropriate adjustments in future payments to such individual or by recovery from * * * or by payment to such individual or his eligible spouse. * * * *" 42 U.S.C. 1383(b)(1)(A) (1982 ed., Supp. IV). Giving the terms their more limited meaning does not produce absurd policy consequences. Reducing future benefits, or requiring the beneficiary to pay over cash, will ordinarily produce more hardship than merely setting off past underpayments and overpayments. It is not at all unreasonable to think that waiver hearings were established only for the former.

As used in the Act, therefore, adjustment can be read to mean decreasing future payments, and recovery to mean obtaining a refund from the beneficiary. Under this interpretation, when the agency nets Mr. A's underpayment against his over-payment, it is not engaged in "adjustment or recovery," but only in the calculation of whether "more or less than the correct amount of payment has been made." Only *after* making that calculation does the Secretary take the additional step of rectifying any error by "adjustment" (increasing or decreasing future payments) or "recovery" (obtaining a refund from the beneficiary). And it is only this latter step that is governed by § 204(b) of the Act. We do not say this is an inevitable interpretation of the statute; but it is asssuredly a permissible one.

B

Since the Act reasonably bears the Secretary's interpretation that netting is premitted, only one issue remains: Respondents contend that the manner in which the regulations provide for netting to be conducted is arbitrary and capricious, because of their definition of the netting period. Overpayments are netted with underpayments up to the "month [of] the initial determiniation" of error. 20 CFR 416.538 (1989). "Initial determination" is a term of art meaning the Secretary's formal determination that an error was committed. See 20 CFR 404.902, 416.1402 (1989). Needless to say, that formal determination will not be simultaneous with the Secretary's first discovery that something is amiss; delay is inevitable. Respondents contend that this delay is fatal. At best, they say, the period over which netting is conducted will turn on the fortuity of the time period between discovery and formal determination. At worst, the Secretary will manipulate the netting period by delaying formal determination, thus including more underpayments in the netting period and

reducing the net overpayment subject to the recoupment-waiver procedures.

It seems to us not arbitrary or capricious to establish a grace period within which these determinations can be considered and formally made; they should not be spur-of-the-moment decisions. That delay will extend the netting period, and may result in the inclusion of more underpayments to be netted. But we cannot say that the alternatives—immediate determinations, or determinations within a fixed period—would not produce errors that make beneficiaries worse off on the whole.

Moreover, although the Secretary's regulations do not establish a fixed time period for the formal determination, they do establish a time limit upon the principal adverse consequence of delay: the netting-in of additional underpayments. The regulations provide:

"Where an apparent overpayment has been detected but determination of the overpayment has not been made (see § 416.558(a)), a determination and payment of an underpayment which is otherwise due cannot be delayed unless a determination with respect to the apparent overpayment can be made before the close of the month following the month in which the underpaid amount was discovered." 20 CFR 416.538 (1989).

See also HHS, Program Operation Manual System, GN 02201.002 (1989) (Social Security Administration policy to resolve overpayments as quickly as possible). Respondents' fear of intentional manipulation of the netting period can be entirely dismissed if this provision is observed in good faith—as we must presume, in this facial challenge, it will be. See *e.g., FCC* v. *Schreiber*, 381 U.S. 279, 296, 85 S.Ct. 1459, 1470, 14 L.Ed.2d 383 (1965). The intentional manipulation hypothesis is in any event implausible. Deliberately protracting the netting period may indeed draw in future underpayments; but it may just as likely draw in future overpayments, which will be uncollectible until the Secretary's determination is made. The Secretary might conceivably ensure that delay works to the Government's financial advantage by *deliberately* underpaying while keeping the netting period open, but since that is an obvious violation of the Act it is again not the stuff of which a facial challenge can be constructed.

In addition to the fact that the disadvantages of the Secretary's approach are less than respondents assert, the disadvantages of respondents' approach are more. The Secretary points out that a separate accounting for each month would cause the agency great expense, in the cost of a greatly increased volume of complex recoupment-waiver proceedings, in the cost of overpayments that are simply written off because the cost of the proceedings would exceed the recovery, and in the cost of overpayments whose return will be subject to lengthy delays. These expenses "in the end come out of the pockets of the deserving since resources available for any particular program of social welfare are not unlimited." *Mathews* v. *Eldridge*, 424 U.S. 319, 348, 96 S.Ct. 893, 909, 47 L.Ed.2d 18 (1976).

Respondents seek to minimize the administration burden by proposing a scheme under which the Secretary would notify the beneficiary of underpayments and overpayments, withhold reimbursement of the underpayments for a brief period during which the beneficiary may seek waiver of recoupment of overpayments, and then net the underpayments and that portion of the overpayments as to which waiver has not been sought. This scheme, however, does not at all address the problem of delay in netting that is the asserted basis for finding the regulations arbitrary and capricious. Substituting "notification" of underpayments and overpayments for "determination" of underpayments and overpayments merely gives the occasion for the delay another name. What this alternative proposal of respondents really puts forward in an alternative means of assuring that overpayments cannot be "netted out" without an opportunity for waiver hearing. As we discussed at length earlier, the statute does not require such assurance. In sum, we find no basis for holding the regulations arbitrary and capricious.

* * * * *

The Court of Appeals did not reach respondents' contention that the regulations violate due process, and we will not address that claim in the first instance. See, *e.g., United States* v. *Sperry Corp.*, 493 U.S.——, ——, 110 S.Ct. 387, ——, 107 L.Ed.2d 290 (1989). Accordingly, the judgment is reversed and the case remanded for further proceedings consistent with this opinion.

It is so ordered.

Justice Scalia delivered the opinion of the Court, in which Chief Justice Rehnquist and Justices White, Blackmun, and O'Connor joined. Justice Stevens filed a dissenting opinion, in which Justices Brennan, Marshall, and Kennedy joined.

[FR Doc. 92-15180 Filed 6-26-92; 8:45 a.m.]
BILLING CODE 4190-29-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Administration

[Docket No. N-92-3465]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Jennifer Main, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708-0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: June 19, 1992.

John T. Murphy,

Director, Information Resources, Management Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Indian Preference Rule (FR-1808).

Office: Public and Indian Housing.

Description of the Need for the Information and Its Proposed Use: This collection implements Section 7(b) of the Indian Self-Determination and Education Assistance Act which requires that preference be given to Indian enterprises and organizations in contracting, subcontracting, employment, and training.

Form Number: None.
Respondents: State or Local Governments and Small Businesses or Organizations.
Frequency of Submission: On Occasion.
Reporting Burden:

	Number of respondents	X	Frequency of response	X	Hours per response	=	Burden hours
Information collection	1,815		1		1.59		2,920
Recordkeeping	100		1		.25		25

Total Estimated Burden Hours: 2,945.
Status: Reinstatement.
Contact: Dominic Nessi, HUD, (202) 708–1015, Jennifer Main, OMB, (202) 395–6880.

Dated: June 19, 1992.

[FR Doc. 92–15158 Filed 6–26–92; 8:45 am]
BILLING CODE 4210–01–M

[Docket No. N–92–3464]

Submission of Proposed Information Collections to OMB

AGENCY: Office of Administration, HUD.
ACTION: Notices.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comment on the subject proposals.

ADDRESS: Interested persons are invited to submit comment regarding these proposals. Comments should refer to the proposal by name and should be sent to: Jennifer Main, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposals for the collections of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. chapter 35).

The Notices list the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequnetly information submissions will be requried; (7) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, rein statement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: June 19, 1992.

John T. Murphy,
Director, Information Resources Management Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Report on Applicants for Multifamily Rental Housing.
Office: Fair Housing and Equal Opportunity.
Description of the Need for the Information and its Proposed Use: HUD will use this data to assess the results of the initial outreach and marketing activities described in the HUD-approved Affirmative Fair Housing Marketing Plan (935.2) of sponsors or developers of subsidized and unsubsidized insured mutlifamily rental housing projects of five or more units (except Low-Income Public Housing).
Form Number: Hud–935.5.
Respondents: Businesses or Other For-Profit.
Frequency of Submission: Other (Initial Marketing/New Project).
Reporting Burden:

	Number of respondents	X	Frequency of response	X	Hours per response	=	Burden hours
HUD–935.5	1,000		1		.25		250

Total Estimated Burden Hours: 250.
Status: Extension.
Contact: Beverly J. Butler, HUD, (202) 708–2740, Jennifer Main, OMB, (202) 395–6880.

Dated: June 19, 1992.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Deed-in-Lieu of Foreclosure (Corporate Mortgagors or Mortgagors Owning More Than One Property).
Office: Housing.
Description of the Need for the Information and its Proposed Use: Mortgagees must obtain written consent from local HUD Field Offices to accept a deed-in-lieu of foreclosure when the mortgagor is a corporate mortgagor or a mortgagor owning more than one property. Mortgagees must provide HUD with specific information.
Form Number: None.
Respondents: Individuals or Households and Businesses or Other For-Profit.
Frequency of Submission: On Occasion.
Reporting Burden:

	Number of respondents	X	Frequency of response	X	Hours per response	=	Burden hours
Information collection	600		1		.5		300

Total Estimated Burden Hours: 300.

Status: Extension.

Contact: Ann M. Sudduth, HUD, (202) 708–1719, Jennifer Main, OMB, (202) 395–6880.

Dated: June 19, 1992.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Indian Housing Manager Certification—Application Requirements.

Office: Public and Indian Housing.

Description of the Need for the Information and its Proposed Use: The information is used to select training organizations for the Indian Housing Manager Certification Program as a way of improving the management of Indian Housing Authorities.

Form Number: None.

Respondents: Businesses or Other For-Profit and Non-Profit Institutions.

Frequency of Submission: On Occasion.

Reporting Burden:

	Number of respondents	X	Frequency of response	X	Hours per response	=	Burden hours
Application	3		1		40		120

Total Estimated Burden Hours: 120.

Status: Reinstatement.

Contact: Dominic Nessi, HUD, (202) 708–1015, Jennifer Main, OMB, (202) 395–6880.

Dated: June 19, 1992.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Manufactured Home Construction and Safety Standards Act.

Office: Housing.

Description of the Need for the Information and its Proposed Use: The National Manufactured Housing Construction and Safety Standards Act authorized HUD to establish construction and safety standards for manufactured (mobile) homes and to enforce these standards. The standards require pertinent information in the form of labels and notices to be placed in each manufactured home. HUD needs this information to make sure manufacturers are complying with the standards.

Form Number: None.

Respondents: Individuals or Households, State or Local Governments and Businesses or Other For-Profit.

Frequency of Submission: Monthly and Recordkeeping.

Reporting Burden:

	Number of respondents	X	Frequency of response	X	Hours per response	=	Burden hours
SAA Reports	420		1		.64		269
IPIA Reports	300		1		1.0		300
Manufacturer records	175,000		1		.16		28,000
Consumer information cards	175,000		1		.48		84,000
State Plans	315		1		1		315
Consumer manuals	175,000		1		.08		14,000
Labels and notices	175,000		1		.22		38,500

Total Estimated Burden Hours: 165,384.

Status: Reinstatement.

Contact: B. Jeannie Magee, HUD, (202) 708–0584, Jennifer Main, OMB, (202) 395–6880.

Dated: June 19, 1992.

[FR Doc. 92–15159 Filed 6–26–92; 8:45 a.m.]

BILLING CODE 4210–01–M

[Docket No. N–92–3463]

Notice of Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name an should be sent to: Jennifer Main, OMB Desk Officer, Officer of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing an Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information

submissions will be required; (7) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: June 19, 1992.

John T. Murphy,

Director, Information Resources, Management Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Indian Housing Program: Conversion of Rental to Mutual Help (MH) and Termination of Mutual Help Occupancy (MHO) Agreement, (FR–2208).

Office: Public and Indian Housing.

Description of the Need for the Information and its Proposed Use: Under § 905.455, Indian Housing Authorities (IHAs) may request conversion of rental units into homeownership by submitting an application to HUD for approval. Under § 905.446, IHAs attempting to evict/terminate Mutual Help Homebuyers leases for noncompliance with lease-purchase contracts are instructed to document all meetings with the evictee.

Form Number: None.

Respondents: Non-Profit Institutions.

Frequency of Submission: On Occasion.

Reporting Burden:

	Number of respondents	X	Frequency of response	X	Hours per response	=	Burden hours
Application (Sec. 905.455)	15		2		12		360
Recordkeeping (Sec. 905.446)	170		1		4		680

Total Estimated Burden Hours: 1,040.

Status: Reinstatement.

Contact: Dom Nessi, HUD, (202) 708–1015, Jennifer Main, OMB, (202) 395–6880.

Dated: June 19, 1992.

[FR Doc. 92–15160 Filed 6–26–92; 8:45 am]

BILLING CODE 4210–01–M

[Docket No. N–92–3462]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Jennifer Main, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. chapter 35).

The Notice lists the following information:

(1) The title of the information collection proposal;

(2) The office of the agency to collect the information;

(3) The description of the need for the information and its proposed use;

(4) The agency form number, if applicable;

(5) What members of the public will be affected by the proposal;

(6) How frequently information submissions will be required;

(7) An estimate of the total number of hours needed to prepare information submission including number of respondents, frequency of response, and hours of response;

(8) Whether the proposal is new or an extension, rein statement, or revision of an information collection requirement; and

(9) The names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3553(d).

Dated: June 19, 1992.

John T. Murphy,

Director, Information Resources Management Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Urban Homesteading Program—FR–2461.

Office: Community Planning and Development.

Description of the Need for the Information and its Proposed Use: HUD collects application and funding needs data in order to provide program benefits. In addition, community development, racial/ethnic, income range, funds usage, and housing rehabilitation data are collected to meet statutory requirements.

Form Number: Hud–40063–A.

Respondents: State or Local Governments.

Frequency of Submission: Quarterly and Recordkeeping.

Reporting Burden:

	Number of respondents	×	Frequency of Response	Hours per response	×	=	Burden hours
Application	150		5	.849			637

Total Estimated Burden Hours: 637.

Status: Extension.

Contact: Dawn Kuhn, HUD, (202) 708–0324. Jennifer Main, OMB, (202) 395–6880.

Dated: June 19, 1992.

[FR Doc. 92–15164 Filed 6–26–92; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–964–4230–15; F–22608; F–22562]

Alaska Native Claims Selection; Notice for Publication

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that decisions to issues conveyance under the provisions of section 14(h)(1) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(h)(1), will be issued to Doyon, Limited. The lands involved are located near Arctic Village (F–22608) and Venetie (F–22652), and are described as follows:

UMIAT MERIDIAN, ALASKA

F–22608...	T. 13 S., Rs. 29 and 30 E., Fairbanks Meridian, Alaska.	135 acres.
F–22652...	T. 29 N., R. 4 E.....	6 acres.

A notice of the decisions will be published once a week, for four (4) consecutive weeks, in the FAIRBANKS DAILY NEWS–MINER. Copies of the decisions may be obtained by contacting the Alaska State Office of the Bureau of Land Management, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599 ((907) 271–5960).

Any party claiming a property interest which is adversely affected by the decision an agency of the Federal government or regional corporation, shall have until July 29, 1992, to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management at the address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR part 4, subpart E, shall be deemed to have waived their rights.

G. Steve Flippen,

Lead Land Law Examiner, Branch of Doyon/Northwest Adjudication.

[FR Doc. 92–15173 Filed 6–26–92; 8:45 am]

BILLING CODE 4310–JA–M

[CA–060–7122–10–6516;CA–30093]

Realty Action: Proposed Exchange of Public Lands in Imperial County, CA; Correction

AGENCY: Bureau of Land Management, Interior.

SUMMARY: In notice document 92–13176, beginning on page 24058 in the issue of Friday, June 5, 1992, Vol. 57, No. 109, make the following corrections:

1. On page 24058, third column, under T.12S., R.16 E., Sec.10, the second line, "NE¼SW¼,NW¼," should read "NE¼ SW¼NW¼,".

2. On page 24059, first column, line 13 from the top, "District Manager" should be changed to "State Director".

3. On the same page and column:

a. Line 15 from the top, "reality" should be changed to "realty".

b. Delete the last sentence in its entirety.

Dated: June 19, 1992.

G. Ben Koski,

Area Manager, El Centro Resource Area.

[FR Doc. 92–15123 Filed 6–26–92; 8:45 am]

BILLING CODE 4310–40–M

[OR–050–4212–11:GP2–297]

Realty Action—Recreation and Public Purposes Classification, Lease/Sale of Public Lands in Deschutes County, OR

AGENCY: Prineville District, Bureau of Land Management, Interior.

ACTION: The following described lands have been examined and found to be suitable for lease/sale under the Recreation and Public Purposes Act of June 14, 1926, as amended (43 U.S.C. 869 *et seq.*).

T. 22 S., R. 10 E., W. M. Deschutes County, Oregon

Section 14: lot 161

These lands comprise 3.26 acres and are being offered by lease to the LaPine Parks and Recreation District for development and use as a community park.

This Decision/Notice is based on the following:

(1) The lands are situated within the LaPine urban area and are considered to be valuable for public purposes.

(2) The land is not of National Significance and is not essential to any Bureau of Land Management program.

(3) The proposed use is in conformance with BLM, State, and local land use planning.

(4) The proposed action will not have any significant or controversial environmental effects.

(5) This property will be developed as a park and serve as a location for community gatherings, fairs and festivals.

(6) The classification, lease and/or patenting of the land to the LaPine Parks and Recreation District is in conformance with policy established by the Secretary of Interior to provide needed lands for community development.

The classification and granting of the lease with the option to purchase the land will not be adverse to any known public or private interests. The project would be developed and maintained in accordance with the approved Plan of Development.

Classification of this tract for lease to the LaPine Parks and Recreation District, under the provisions of the above cited authority segregates the land from all appropriation, including location under the mining laws, except as to application under the Mineral Leasing Laws.

Detailed information concerning this application, including the environmental assessment, is available for review at the Prineville District Office, Box 550, Prineville, Oregon 97754.

Petition for classification OR–48122 is approved as to the land described above.

Dated June 19, 1992.

James L. Hancock,

District Manager, Prineville District Office.

[FR Doc. 92–15124 Filed 6–26–92; 8:45 am]

BILLING CODE 4310–33–M

[ID–942–02–4730–12]

Idaho: Filing of Plats of Survey; Idaho

The plat of the following described land was officially filed in the Idaho State Office, Bureau of Land Management, Boise, Idaho, effective 9 a.m., June 18, 1992.

The plat representing the dependent resurvey of a portion of the subdivisional lines, all of Homestead Entry Survey No. 209, and a metes-and-bounds survey in sections 11 and 14, T. 16 S., R. 20 E., Boise Meridian, Idaho, Group No. 825, was accepted, June 15, 1992.

This survey was executed to meet certain administrative needs of the USDA Forest Service, Region IV.

All inquiries concerning the survey of the above described land must be sent to the Chief, Branch of Cadastral Survey, Idaho State Office, Bureau of Land Management, 3380 Americana Terrace, Boise, Idaho, 83706.

Dated: June 18, 1992.

Duane E. Olsen,

Chief Cadastral Surveyor for Idaho.

[FR Doc. 92-15125 Filed 6-26-92; 8:45 am]

BILLING CODE 4310-GG-M

Fish and Wildlife Service

Endangered and Threatened Wildlife and Plants; Environmental Impact Statement for the Reintroduction of Gray Wolves in Yellowstone National Park and Central Idaho

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of public hearings.

SUMMARY: The U.S. Fish and Wildlife Service announces its intention to conduct public hearings and open houses in the States of Idaho, Montana, and Wyoming and to conduct public hearings in several major cities nationwide to develop management alternatives for the Environmental Impact Statement for the reintroduction of gray wolves in Yellowstone National Park and central Idaho.

DATES: Public hearings will be held in Boise, Idaho; Helena, Montana; and Cheyenne, Wyoming, on August 18, 1992. Public hearings will be held in Washington, DC; Salt Lake City, Utah; and Seattle, Washington, on August 19, 1992. Open houses will be conducted in Idaho, Montana, and Wyoming between August 3 and August 13, 1992. The times and locations of the open houses and hearings will be announced in the local media and in mailings to the interested public.

ADDRESSES: Questions and comments concerning these public meetings should be sent to Mr. Ed Bangs, Project Leader, Yellowstone National Park and central Idaho Gray Wolf Environmental Impact Statement, U.S. Fish and Wildlife Service, P.O. Box 8017, Helena, Montana 59601.

FOR FURTHER INFORMATION CONTACT: Ed Bangs, Project Leader (see **ADDRESSES** above) at telephone (406) 449-5202.

SUPPLEMENTARY INFORMATION: Under the provision of the National Environmental Policy Act, the U.S. Fish and Wildlife Service (Service) is preparing an Environmental Impact Statement (EIS) for the reintroduction of gray wolves to Yellowstone National Park and central Idaho.

On March 9, 1978, the gray wolf was listed as an endangered species throughout the 48 conterminous States, except for Minnesota where the species was listed as threatened. The Northern Rocky Mountain Wolf Recovery Plan (originally approved on May 28, 1980, and revised on August 3, 1987) identified the need for reintroduction of the gray wolf into Yellowstone National Park and central Idaho.

In November 1991, Congress directed the Service, in consultation with the National Park Service and the Forest Service, to prepare an EIS concerning recovery of wolves in Yellowstone National Park and central Idaho and to have a draft completed by May 13, 1993. In April 1992, a series of public open houses were held to identify issues to be considered in the EIS. Nine open houses were held in Wyoming, nine in Montana, and nine in Idaho. In addition, open houses were held in Anchorage, Alaska; Seattle, Washington; Salt Lake City, Utah; St. Paul, Minnesota; Denver, Colorado; Albuquerque, New Mexico; and Washington, DC. Over 1,700 people attended the 34 open houses.

The issues identified as a result of these open houses were summarized in a "Gray Wolf EIS Issues" report that is being provided to the public. An additional series of open houses and public hearings will be conducted to seek public input in identifying alternatives regarding gray wolf reintroduction that may be analyzed in the draft EIS. A series of 27 open houses (9 in Wyoming, 9 in Montana, and 9 in Idaho) will be conducted between August 3 and August 13, 1992. In addition to the open houses, six public hearings will be conducted. The public hearings will be held August 18 in Cheyenne, Wyoming; Helena, Montana; and Boise, Idaho. On August 19, public hearings will be held in Seattle, Washington; Salt Lake City, Utah; and Washington, DC.

Preliminary alternatives suggested to date by the public include: (1) No-wolf option (not allowing wolves to recover), (2) Wolf Management Committee alternative (congressionally designated experimental population with State management), (3) reintroduction of wolves as experimental populations, (4) no-action alternative (natural recolonization from other populations), and (5) reintroduction of wolves as an endangered species. Additional alternatives may be identified through the upcoming series of public meetings.

A scoping brochure was prepared that details the EIS process, background information, issues and alternatives identified to date, open house and hearing locations and times, and how to become involved. People who previously requested wolf recovery information will receive copies. Other interested people can obtain copies by writing to Ed Bangs, Project Leader (see **ADDRESSES** above).

Dated: June 12, 1992.

Galen L. Buterbaugh,

Regional Director, Region 6.

[FR Doc. 92-15172 Filed 6-26-92; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF JUSTICE

Lodging of Consent Order Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act

Notice is hereby given that as of June 22, 1992, proposed consent orders have been lodged with the United States Bankruptcy Court fot the District of Delaware. The proposed consent orders resolve the claims of the United States under the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA") in the consolidated bankruptcy proceedings of Harvard Industries, Inc. and its subsidiaries, Harman-Automotive, Inc. and Harman-Automotive—Puerto Rico, Inc., and the Kingston-Warren Corporation at three Superfund sites: The Kramer Site, located in Elkins, Mo.; the Alsco-Anaconda Superfund Site, located in Gnadenhutten, Ohio; and the Keefe Environmental Superfund Site, Epping, New Hampshire ("Keefe Site").

The proposed consent order between the United States and Harvard Industries fixes past costs at the Alsco-Anaconda Site at $10,000 and at the Kramer Site at $80,000, and provides that Harvard will pay such costs according to the terms of the Plan of Reorganization as ultimately confirmed. The order further estimates future costs at both sites for purposes of voting in the bankruptcy at zero, with the final amount to be fixed in subsequent CERCLA enforcement proceedings.

The proposed consent order between the United States and Harvard's subsidiary Kingston-Warren Corporation ("Kingston-Warren") fixes Kingston-Warren's share at the Keefe Environmental Superfund Site, located in Epping, New Hampshire at $529,306.92. It will be part of a global cash-out of nearly 160 PRPs at the Site. Upon entry, the proposed order will authorize Kingston-Warren to enter into

the consent decree for the global settlement and will authorize an escrow agent holding payment from Kingston-Warren's insurance carrier to release payment equal to Kingston-Warren's share.

The Department of Justice will receive comments relating to the proposed consent decrees for a period of twenty-one (21) days from the date of this publication, or until July 17, 1992, whichever is earlier. Comments on either of these decrees should be addressed to the Assistant Attorney General, Environment & Natural Resources Division, U.S. Department of Justice, Washington, DC 20530, and should refer to *In re: Harvard Industries, Inc. et al.*, DOJ ref. no. 90-11-3-488A.

Copies of the proposed consent orders may be examined at the Office of the United States Attorney, District of Delaware, J. Caleb Boggs Federal Building, 844 King Street, room 5110, Wilmington, DE 19801. Copies of the proposed consent decrees may also be examined or obtained by mail at the Environmental Enforcement Document Center, 601 Pennsylvania Avenue, NW., Box 1097, Washington, DC 20004 (202-347-2072). When requesting a copy of the proposed consent decrees, please enclose a check in the amount of $4.00 (twenty-five cents per page reproduction costs) payable to the "Consent Decree Library."

Roger Clegg,

Acting Assistant Attorney General, Environment & Natural Resources Division.

[FR Doc. 92-15142 Filed 6-26-92; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification

The following parties have filed petitions to modify the application of mandatory safety standards under section 101(c) of the Federal Mine Safety and Health Act of 1977.

1. Sunnyside Coal Company

[Docket No. M-92-61-C]

Sunnyside Coal Company, P.O. Box 99, Sunnyside, Utah 84539 has filed a petition to modify the application of 30 CFR 75.507 (power connection points) for its Mine No. 1 (I.D. No. 42-00093) located in Carbon County, Utah. The petitioner proposes to install a non-permissible deep-well pump in return air and states that this type of pumping system will increase safety at the mine.

2. Red Oak Mining Company

[Docket No. M-92-62-C and No. M-92-63-C]

Red Oak Mining Company, Three Parkway Center, Pittsburgh, Pennsylvania 15220 has filed petitions to modify the application of 30 CFR 75.1103-4 (automatic fire sensor and warning device systems; installation; minimum requirements) and 30 CFR 75.326 (aircourses and belt haulage entries) for its South Mine (I.D. No. 36-07810) located in Cambria County, Pennsylvania. The petitioner proposes to use belt air at the faces on all present and future belt installations and states that the proposed method will provide no less than the same measure of protection as the standard.

3. Koch Carbon, Inc.

[Docket No. M-92-64-C]

Koch Carbon, Inc., Koch Raven Division, P.O. Box V, Oakwood, Virginia 24631 has filed a petition to modify the application of 30 CFR 77.214(a) (refuse piles; general) for its No. 1 Preparation Plant (I.D. No. 4400986) located in Buchanan County, Virginia. Petitioner proposes to construct a refuse fill in an area containing abandoned mine openings. Petitioner states that the proposed alternate method will not jeopardize the safety of the miners at the preparation plant.

4. Heatherly Mining, Inc.

[Docket No. M-92-65-C]

Heatherly Mining, Inc., P.O. Box 550, Henryetta, Oklahoma 74437 has filed a petition to modify the application of 30 CFR 75.1403-5(g) (criteria—belt conveyors) for its Pollyanna #4 Mine (I.D. No. 34-01633) located in Okmulgee County, Oklahoma. Petitioner proposes to reduce the clearance on one side of the conveyor belt to less than 24 inches due to the installation of steel arches to provide roof support for a deteriorating roof and states that this will provide an increased level of safety and protection for the workers.

5. Consol Pennsylvania Coal Company

[Docket No. M-92-66-C and M-92-67-C]

Consol Pennsylvania Coal Company, 1800 Washington Road, Pittsburgh, Pennsylvania 15241 has filed petitions to modify the application of 30 CFR 75.503 (permissible electric face equipment; maintenance) and 75.804(a) (underground high=-voltage cables) for its Bailey Mine (I.D. No. 36-07230) located in Greene County, Pennsylvania. Petitioner proposes to increase the maximum lengths of certain trailing cables to 800 feet and to use a high-voltage cable with an internal ground check conductor smaller than No. 10 (A.W.G.). Petitioner states that the proposed methods will at all times provide no less than the same measure of protection to the miners as the mandatory standard.

6. Consolidation Coal Company

[Docket No. M-92-68-C]

Consolidation Coal Company, 1800 Washington Road, Pittsburgh, Pennsylvania 15241 has filed a petition to modify the application of 30 CFR 75.503 (permissible electric face equipment; maintenance) for its Osage No. 3 Mine (I.D. No. 46-01455) located in Monongalia County, West Virginia. Petitioner proposes to make a weekly examination of certain areas of the mine and states that this method will provide the same measure of protection to the miners as would be provided by the mandatory standard.

7. Costain Coal Inc.

[Docket No. M-92-69-C]

Costain Coal Inc., P.O. Box 289, Sturgis, Kentucky 42459 has filed a petition to modify the application of 30 CFR 75.303 (preshift examination) for its Pyro #9 Wheatcroft Mine (I.D. No. 15-13920) located in Webster County, Kentucky. Petitioner proposes to construct seals adjacent to the mine shaft, with a continuous monitoring system and an audible and visual alarm signal located at a surface location where a responsible person is on duty at all times while miners are underground. Petitioner believes that the application of the standard will result in a diminution of safety for the miners affected.

Request for Comments

Persons interested in these petitions may furnish written comment. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before July 29, 1992. Copies of these petitions are available for inspection at that address.

Dated: June 22, 1992.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 92-15216 Filed 6-26-92; 8:45 am]

BILLING CODE 4510-43-M

NATIONAL COMMISSION ON FINANCIAL INSTITUTION REFORM, RECOVERY, AND ENFORCEMENT

Meeting

AGENCY. National Commission on Financial Institution Reform, Recovery, and Enforcement.

TIME AND DATE: 1:30–3:30 p.m., July 21, 1992.

PLACE: Peter Zenger Room, National Press Club, 13th Floor, 529 14th Street, NW., Washington, DC 20045.

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED: The Commission will discuss and refine the Commission's work plan and the research methodology to be utilized to accomplish the plan's objectives. In addition, the Commission will consider any other such matters as may properly come before it. Due to limited seating, persons wishing to attend should call the below listed contact persons in advance.

CONTACT PERSONS FOR MORE INFORMATION: Larry G. Hicks (202) 632–1556, or Linda R. Johnson (202) 632–1556.

Larry G. Hicks,

Director of Administration.

[FR Doc. 92–15114 Filed 6–26–92; 8:45 am]

BILLING CODE 6820–PD–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Arts in Education Advisory Panel (Arts Plus Initiative #3: Theater and Opera-Musical Theater Section) to the National Council on the Arts will be held on July 14–15, 1992 from 9 a.m.–5 p.m. in room 730 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the Agency by grant applicants. In accordance with the determination of the Chairman of November 20, 1991, as amended, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of title 5, United States Code.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5433.

Dated: June 15, 1992.

Yvonne M. Sabine,

Director, Panel Operations, National Endowment for the Arts.

[FR Doc. 92–15126 Filed 6–26–92; 8:45 am]

BILLING CODE 7537–01–M

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Folk Arts Advisory Panel (Challenge IV Section) to the National Council on the Arts will be held on July 24, 1992 from 9 a.m.—2 p.m. in room 716 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the Agency by grant applicants. In accordance with the determination of the Chairman of November 20, 1991, as amended, this session will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of title 5, United States Code.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5433.

Dated: June 11, 1992.

Yvonne M. Sabine,

Director, Panel Operations National Endowment for the Arts

[FR Doc. 92–15127 Filed 6–26–92; 8:45am]

BILLING CODE 7537–01–M

NATIONAL SCIENCE FOUNDATION

Committee Management; Renewals

The Assistant Directors having responsibility for the Advisory Committees listed below have determined that renewal of these groups is necessary and in the public interest in connection with the performance of duties imposed upon the Director, National Science Foundation (NSF), by 42 U.S.C. 1861 et seq. This determination follows consultation with the Committee Management Secretariat, General Services Administration. Authority for these Advisory Committees will expire on June 30, 1994, unless they are renewed.

Directorate for Biological Sciences

Special Emphasis Panel in Biological Instrumentation and Resources (formerly titled Special Emphasis Panel in Instrumentation and resources)
Special Emphasis Panel in Environmental Biology (formerly titled Special Emphasis Panel in Biotic Systems & Resources)
Special Emphasis Panel in Integrative Biology and Neuroscience (formerly titled Special Emphasis Panel in Cellular Biology)
Special Emphasis Panel in Molecular and Cellular Biosciences (formerly titled Special Emphasis Panel in Molecular Biosciences)

Directorate for Computer and Information Science and Engineering

Special Emphasis Panel in Advanced Scientific Computing
Special Emphasis Panel in Computer and Computation Research
Special Emphasis Panel in Cross-Disciplinary Activities
Special Emphasis Panel in Information, Robotics and Intelligent Systems
Special Emphasis Panel in Microelectronic Information Processing Systems
Special Emphasis Panel in Networking & Communications Research & Infrastructure

Directorate for Education and Human Resources

Special Emphasis Panel in Experimental Programs to Stimulate Competitive Research (EPSCoR) (formerly titled Advisory Panel for)
Special Emphasis Panel in Teacher Preparation and Enhancement
Special Emphasis Panel in Human Resource Development
Special Emphasis Panel in Studies, Evaluation, and Dissemination (formerly titled Advisory Panel for Studies, Evaluation, and Dissemination)
Special Emphasis Panel in Research Career Development
Special Emphasis Panel in Undergraduate Science, Engineering, & Mathematics Education (formerly titled Proposal Review Panel for)

Directorate for Engineering

Special Emphasis Panel in Biological and Critical Systems
Special Emphasis Panel in Chemical and Thermal Systems
Special Emphasis Panel in Design and Manufacturing Systems
Special Emphasis Panel in Electrical and Communications Systems
Special Emphasis Panel in Industrial Innovation Interface (formerly titled Special Emphasis Panel in Industrial Science and Technological Innovation)
Special Emphasis Panel in Mechanical and Structural Systems

Directorate for Geosciences

Special Emphasis Panel in Atmospheric Sciences
Special Emphasis Panel in Polar Programs
Continental Dynamics proposal Review Panel
Special Emphasis Panel in Earth Sciences

Directorate for Mathematical and Physical Sciences

Special Emphasis Panel in Astronomical Sciences
Special Emphasis Panel in Chemistry
Special Emphasis Panel in Materials Research
Special Emphasis Panel in Mathematical Sciences
Special Emphasis Panel in Physics

Directorate for Social, Behavioral, and Economic Sciences

Special Emphasis Panel in Behavioral and Cognitive Sciences (formerly titled Special Emphasis Panel in Behavioral and Neural Sciences)
Special Emphasis Panel in International Programs (formerly titled International programs Review Panel)

Dated: June 24, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 92–15213 Filed 6–26–92; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Materials Research; Meetings

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following meetings:

Name: Special Emphasis Panel in Materials Research

Date and Time: July 14–15, 1992; 8:30 a.m. to 5 p.m.

Place: Rm. 500–A, Conference and Training Center, Marie Curie Rm., 1110 Vermont Avenue, NW., Washington, DC.

Contact Person: Dr. William Bernard, Senior Research Scientist, DMR, National Science Foundation, 1800 G St. NW., Washington, DC 20550. Telephone: (202) 357–9791.

Agenda: To review and evaluate Undergraduate Materials Education proposals as part of the selection process for awards.

Name: Special Emphasis Panel in Materials Research

Date and Time: July 20, 1992; 7 p.m. to 9 p.m.; July 21–22, 1992; 8 a.m. to 5 p.m.

Place: Science and Technology Center, University of Illinois, Urbana-Champaign

Contact Person: Dr. Robert J. Reynik, Office of Special Programs, DMR, rm. 408, National Science Foundation, 1800 G St. NW., Washington, DC 20550. Telephone: (202) 357–9791.

Agenda: To (1) review and evaluate renewal proposals as part of the selection process for awards and (2) prepare site visit report.

Type of Meetings: Closed

Purpose of Meetings: To provide advice and recommendations concerning support for research proposals submitted to the NSF for financial support.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: June 24, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 92–15212 Filed 6–26–92; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Documents Containing Reporting or Recordkeeping Requirements: Office of Management and Budget (OMB) Review

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of the Office of Management and Budget (OMB) review of information collection.

SUMMARY: The NRC has recently submitted to the OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

1. Type of submission, new, revision, or extension: Revision.

2. The title of the information collection: 10 CFR part 21, "Reporting of Defects and Noncompliance."

3. The form number if applicable: Not applicable.

4. How often the collection is required: On occasion.

5. Who will be required or asked to report: All directors and responsible officers of firms and organizations building, operating, or owning NRC licensed facilities as well as directors and responsible officers of firms and organizations supplying basic components and safety related design, analysis, testing, inspection, and consulting services to NRC licensed facilities or activities.

6. An estimate of the number of responses: 350 annually (150 initial notifications, 150 written reports, and 50 interim reports).

7. An estimate of the average burden hours per response: 66 hours.

8. An estimate of the total number of hours needed to complete the requirement or request: 22,988 (19,300 reporting hours and 3,688 recordkeeping hours).

9. An indication of whether section 3504(h), Public Law 96–511 applies: Not applicable.

10. Abstract: 10 CFR part 21 implements section 206 of the Energy Reorganization Act of 1974, as amended. It requires directors and responsible officers of firms and organizations building, operating, owning, or supplying basic components to NRC licensed facilities or activities to report defects and noncompliances that could create a substantial safety hazard at NRC licensed facilities or activities. Organizations subject to 10 CFR part 21 are also required to maintain such records as may be required to assure compliance with this regulation.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC 20555.

Comments and questions should be directed to the OMB reviewer: Ronald Minsk, Office of Information and Regulatory Affairs (3150–0035) NEOB–3019, Office of Management and Budget, Washington, DC 20503.

Comments can also be submitted by telephone at (202) 395–3084.

The NRC Clearance Officer is Brenda Jo. Shelton, (301) 492–8132.

Dated at Bethesda, Maryland, this 22nd day of June 1992.

For the Nuclear Regulatory Commission.

Gerald F. Cranford,

Designated Senior, Official for Information Resources Management.

[FR Doc. 92–15199 Filed 6–26–92; 8:45am]

BILLING CODE 7590–01–M

[Docket No. 50-446]

Texas Utilities Electric Co., et al.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an extension to the latest construction completion date specified in Construction Permit No. CPPR-127 issued to Texas Utilities Electric Company, (the applicant), for the Comanche Peak Steam Electric Station (CPSES), Unit 2, located in Somervell County, Texas.

Environmental Assessment

Identification of Proposed Action

The proposed action would amend the construction permit by extending the latest construction completion date from August 1, 1992 to August 1, 1995. The proposed action is in response to Applicant's request dated February 3, 1992, as supplemented by letter dated March 16, 1992.

The Need for the Proposed Action

The Applicant states in its request that the proposed action is needed to complete the construction and preoperational testing for Unit 2. For approximately 32 months, TU Electric redirected its resources principally to Unit 1 in order to complete construction and startup of that Unit. As a result, additional time is now needed to complete the construction of Unit 2.

Environmental Impacts of the Proposed Action

The environmental impacts associated with construction of the Comanche Peak facility are associated with both units and have been previously evaluated and discussed in the NRC Staff's Final Environmental Statement (FES), issued in June 1974, which covered the construction of both units. One of the environmental impacts, groundwater withdrawal, is the subject of a construction permit condition and will be discussed further below.

Since the proposed action concerns the extension of the construction permit, the impacts involved are all non-radiological and are associated with continued construction. There are no new significant impacts associated with the proposed action. All activities will take place within the facility, will not result in impacts to previously undisturbed areas, and will not have any significant additional environmental impact. However, there are impacts that would continue during the completion of facility construction.

The FES identified four major environmental impacts due to the construction of both units. Three of the four major environmental construction impacts discussed in the FES have already occurred and are not affected by this proposed action:

—Construction-related activities have disturbed about 400 acres of rangeland and 3,228 acres of land have been used for the construction of Squaw Creek Reservoir.

—The initial set of transmission lines and the additional planned line as discussed in the FES are completed.

—Pipelines have been relocated and the railroad spur and diversion and return lines between Lake Granbury and Squaw Creek Reservoir have been completed.

The fourth major environmental impact addressed in the FES is the community impact which would continue with the extended construction of the facility. The requested extension only involves impacts previously considered, with none of these impacts greater than those previously considered. These impacts flow principally from the prolonged presence of construction workers into the surrounding communities in Hood and Somervell counties. The current work force level of approximately 6650 represent the total on-site work force (i.e., TU Electric and contract personnel supporting Unit 1 and 2 activities). This number represents a decline of 850 from the peak work force on-site at the end of the construction phase of Unit 1, and will continue to decline as the applicant implements its destaffing plan, as Unit 2 construction nears completion. It should be noted that 85 percent of the total work force are contractors and consultants who do not live in the area and, in general, use only temporary quarters during the work week, (i.e., even while they are present there are no extended impacts associated with the arrival of families or services necessary to support permanent residents). In sum, the only community impacts which would accompany this extension would be those which extend the total time the local community is affected by the present demand for public services. As such, the maintenance of the work force level for the additional months requested should not result in significant additional impacts. In addition, it should be noted that only 4500 personnel are associated full time with the Unit 2 Construction Permit extension, and the remainder are required to support the operation of Unit 1 or split their time between Units 1 and 2.

Another impact, the subject of a construction permit condition, is groundwater withdrawal. At the present time, non-potable water for construction activities is being supplied from treated lake water. The construction permit for Comanche Peak Unit 2 includes a condition that the annual average groundwater withdrawal rate not exceed 40 gallons per minute (gpm). The applicant has confirmed that current groundwater withdrawal rates are within the limit established by the construction permit. Thus, continued construction will have no significant impact on groundwater. As background, the NRC Staff's environmental impact appraisal for Amendment 2 of Construction Permit Nos. CPPR-126 and CPPR-127 was based upon a maximum withdrawal of 6.57×10^8 gallons during the construction period of five years at a rate of 250 gpm. For the following reasons the staff's appraisal is still unchanged for the total groundwater to be withdrawn through August 1, 1995. First, from 1975 through December 1986 approximately 4.96×10^8 gallons of groundwater had been withdrawn from the two production wells. From June 1982 through December 1986, 4.52 million ($.045 \times 10^8$) gallons of groundwater had been withdrawn from an additional well, (NOSF well). Second, from January 1987 through February 1992 approximately 64.5 million (0.65×10^8) gallons of groundwater had been withdrawn from the two production wells and the NOSF well. Third, even assuming a maximum groundwater withdrawal of 40 gpm from March 1, 1992 through August 1, 1995, for all groundwater sources (this withdrawal rate is authorized by Amendment 6 to Construction Permits CPPR-126 and CPPR-127), there would be approximately 71.88 million (0.72×10^8) gallons withdrawn. Totaling the above results in a conservative estimate of the total groundwater withdrawal of approximately 6.37×10^8 gallons for the period through August 1, 1995, which is less than the 6.57×10^8 gallons originally evaluated and authorized by the NRC staff.

As required by the construction permit, environmental monitoring has been conducted.

In the past, a number of groups have identified concerns regarding the potential environmental impacts of several closed landfills at CPSES that contain relatively small amounts of hazardous wastes. Because these landfills are pre-existing conditions, any environmental impacts from the landfills will not be attributable to the extension of the construction completion date for

Unit 2. Furthermore, any impacts from the landfills will occur regardless of whether the construction completion date is extended, and an extension will not have any adverse effect on any impacts from the landfills. Therefore, the landfills in question have no relevance to the extension of the construction completion date for Unit 2.

In conclusion, there have been no unreviewed adverse environmental impacts associated with construction and none are anticipated.

Based on its evaluation, the staff has concluded that the calculated impact of continuing to withdraw groundwater at an annual average rate of 40 gpm for the site until August 1, 1995 is negligible and does not result in any significant additional environmental impact. The staff's conclusion is substantiated by groundwater level data collected at the site during construction and periods of large water withdrawal and provided in the Applicant's supplemental letter dated March 16, 1992.

Based on the foregoing, the NRC staff has concluded that the proposed action would have no significant environmental impact. Since this action would only extend the period of construction activities described in the FES, it does not involve any different impacts or significant changes to those impacts described and analyzed in the original environmental impact statement. Consequently, an environmental impact statement addressing the proposed action is not required.

Alternative to the Proposed Action

The NRC staff has considered that a possible alternative to the proposed action would be for the Commission to deny the request. If this alternative were executed, the Applicant would not be able to complete the construction of the facility, resulting in the denial of benefits to be derived from the production of electric power. This alternative would not eliminate the environmental impacts of construction which have already been incurred. If construction were not completed on CPSES Unit 2 the amount of site redress activities that could be undertaken to restore the area to its natural state would be minimal due to the operation of CPSES Unit 1. This slight environmental benefit would be much outweighed by the economic losses from denial of the use of a facility that is nearly complete. Therefore, the NRC staff has rejected this alternative.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for the Comanche Peak Steam Electric Station.

Agencies and Persons Consulted

The NRC staff reviewed the Applicant's request and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for this action.

Based upon the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the Applicant's request for extension dated February 3, 1992, as supplemented by letter dated March 16, 1992, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC and at the University of Texas at Arlington Library, Government Publications/Maps, 701 South Cooper, P.O. Box 19497, Arlington, Texas 76019.

Dated at Rockville, Maryland, this 23d day of June 1992.

For the Nuclear Regulatory Commission.

Suzanne C. Black,

Director, Project Directorate IV-2, Division of Reactor Projects III/IV/V, Office of Nuclear Reactor Regulation.

[FR Doc. 92-15200 Filed 6-26-92; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Meeting Agenda

In accordance with the purposes of sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards will hold a meeting on July 9-11, 1992, in room P-110, 7920 Norfolk Avenue, Bethesda, Maryland. Notice of this meeting was published in the Federal Register on May 21, 1992.

Thursday, July 9, 1992

8:30 a.m.—8:45 a.m.: Opening Remarks by ACRS Chairman

(Open)—The ACRS Chairman will make opening remarks and comment briefly regarding items of current interest.

8:45 a.m.–12 Noon: Integral System Testing for the Westinghouse AP600

(Open/Closed)—The Committee will review and report on proposed integral system testing programs for certification of the Westinghouse AP600 standard plant design. Representatives of the NRC staff and the Westinghouse Electric Corporation will participate, as appropriate.

Portions of this session will be closed as necessary to discuss Proprietary Information applicable to this matter.

1 p.m.–2 p.m.: Status of Inspections, Tests, Analyses, and Acceptance Criteria (ITAAC) Program

(Open)—The Committee will review and comment on the status of the ITAAC program and plans for its implementation. Representatives of the NRC staff and the nuclear industry will participate, as appropriate.

2:15 p.m.–4:45 p.m.: Severe Accident Research Program Plan

(Open)—The Committee will review and comment on proposed revision of the Severe Accident Research Program Plan (NUREG–1365, Rev. 1) to update the plan consistent with regulatory developments. Representatives of the NRC staff and the nuclear industry will participate, as appropriate.

4:45 p.m.–5:45 p.m.: Meeting with Director, NRC Office for Analysis and Evaluation of Operational Data

(Open)—The Committee will hear a briefing and hold a discussion on items of mutual interest, including use of "expert systems" in the accident management process, use of simulators at the NRC Training Center, and the status of implementation of the Energy Response Data System.

5:45 p.m.–6:15 p.m.: Future ACRS Activities

(Open)—The Committee will discuss topics proposed for consideration by the full Committee.

6:15 p.m.–6:45 p.m.: Preparation of ACRS Reports

(Open)—The Committee will discuss proposed Committee comments and recommendations regarding items considered during this meeting.

Friday, July 10, 1992

8:30 a.m.–10:30 a.m.: EPRI Requirements for Evolutionary Light-Water Reactors

(Open)—The Committee will review and report on proposed EPRI design requirements for evolutionary light-water reactors and the associated NRC staff's safety evaluation report. Representatives of the NRC staff and EPRI will participate, as appropriate.

10:45 a.m.–12 Noon: Generic Issue-106, Piping and Use of Highly Combustible Gases in Vital Areas

(Open)—The Committee will review and report on the NRC staff proposed resolution of Generic Issue-106. Representatives of the NRC staff and the nuclear industry will participate, as appropriate.

1 p.m.–3:45 p.m.: Policy Issues for Certification of Evolutionary and Passive Plant Designs

(Open)—The Committee will review and comment on technical policy issues identified by the NRC staff which are applicable to the certification of standardized plant designs and on the proposed NRC staff positions for resolution of these issues. Representatives of the NRC staff and the nuclear industry will participate, as appropriate.

3:45 p.m.–4:15 p.m.: Meeting with Deputy Director for Generic Issues and Rulemaking, Office of Nuclear Regulatory Research

(Open)—The Committee will hear a briefing and hold a discussion regarding a proposed mechanism for prioritization of generic issues.

4:15 p.m.–5:15 p.m.: Standard Review Plan for License Renewal

(Open)—The Committee will review and report on the proposed Standard Review Plan for License Renewal (NUREG–1299) and a proposed Regulatory Guide (DG 1009) on the Form and Content of a License Renewal Application. Representatives of the NRC staff and the Nuclear industry will participate, as appropriate.

5:15 p.m.–6:15 p.m.: Reactor Component Fatigue Considerations for License Renewal

(Open)—The Committee will review and comment on proposed Branch Technical Position regarding this matter. Representatives of the NRC Staff and the nuclear industry will participate, as appropriate.

6:15 p.m.–6:45 p.m.: Preparation of ACRS Reports

(Open)—The Committee will discuss proposed Committee comments and recommendations regarding items considered during this meeting.

Saturday, July 11, 1992

8:30 a.m.–11 a.m.: Preparation of ACRS Reports

(Open)—The Committee will discuss proposed ACRS reports regarding items considered during this meeting.

11 a.m.–11:45 a.m.: Appointment of ACRS Members

(Open/Closed)—The Committee will discuss qualifications of candidates nominated for appointment to the ACRS.

This session will be closed as necessary to discuss information the release of which would represent a clearly unwarranted invasion of personal privacy.

11:45 a.m.–1 p.m.: ACRS Subcommittee Activities

(Open)—The Committee will hear reports and hold a discussion on designated subcommittee activities, including use of computers in nuclear power plant operations and policies and practices regarding the conduct of ACRS activities.

1 p.m.–2:30 p.m.: Miscellaneous

(Open)—The Committee will complete discussion of items considered during this meeting and items which were not completed at previous Committee meetings, as time and availability of information permit.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 1, 1991 (56 FR 49800). In accordance with these procedures, oral or written statements may be presented by members of the public, recordings will be permitted only during those open portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Committee, its consultants, and staff. Persons desiring to make oral statements should notify the ACRS Executive Director, Mr. Raymond F. Fraley, as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture, and television cameras during this meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by a prepaid telephone call to the ACRS Executive Director prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the ACRS Executive Director if such rescheduling would result in major inconvenience.

I have determined in accordance with subsection 10(d) Public Law 92–463 that it is necessary to close portions of this meeting noted above to discuss Proprietary Information applicable to the matters being considered in accordance with 5 U.S.C. 552b(c)(4) and information the release of which would represent a clearly unwarranted invasion of personal privacy per 5 U.S.C. 552b(c)(6).

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted can be obtained by a prepaid telephone call to the ACRS Executive Director, Mr. Raymond F. Fraley (telephone 301–492–8049), between 8 a.m. and 4:30 p.m. e.s.t.

Dated: June 23, 1992.

John C. Hoyle,

Advisory, Committee Management Officer.

[FR Doc. 92–15201 Filed 6–26–92; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–423]

Northeast Nuclear Energy Co. et al.; Denial of Amendment to Facility Operating License and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) has denied in part a request by Northeast Nuclear Energy Company, (licensee) for an amendment to Facility Operating License No. NPF–40, issued to the licensee for operation of the Millstone Nuclear Power Station, Unit No. 3, located in New London County, Connecticut. Notice of Consideration of Issuance of this amendment was published in the **Federal Register** on January 8, 1992 (57 FR 712).

The purpose of the part of the licensee's amendment request which was denied was to revise the Technical Specifications (TS) to change Technical Specification 3/4.7.7 with respect to action required during Modes 5 and 6 when (1) one control room emergency air filtration system (CREAFS) is inoperable, and (2) the operable CREAFS is not powered by the operable emergency power source.

The NRC staff has concluded that the licensee's request cannot be granted. The licensee was notified of the Commission's denial of the proposed change by letter dated June 23, 1992.

By July 29, 1992, the licensee may demand a hearing with respect to the denial described above. Any person whose interest may be affected by this proceeding may file a written petition for leave to intervene.

A request for hearing or petition for leave to intervene must be filed with the Secretary of the Commission, U.S.

Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC, by the above date.

A copy of any petitions should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Gerald Garfield, Esquire, Day, Berry and Howard, Counselors at Law, City Place, Hartford, Connecticut 06103–3499, attorney for the licensee.

For further details with respect to this action, see (1) the application for amendment dated December 11, 1991, and (2) the Commission's letter to the licensee dated June 23, 1992.

These documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC 20555, and at the local public document room located at the Learning Resources Center, Thames Valley State Technical College, 574 New London Turnpike, Norwich, Connecticut 06360. A copy of Item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Document Control Desk.

Dated at Rockville, Maryland, this 23rd day of June 1992.

For the Nuclear Regulatory Commission.

John F. Stolz,

Director, Project Directorate I–4, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 92–15202 Filed 6–26–92; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF PERSONNEL MANAGEMENT

Request for Clearance of A New Information Collection, Form RI 25–49

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (title 44, U.S. Code, chapter 35), this notice announces a request for clearance of a new information collection. Form RI 25–49, Verification of Adult Student Enrollment Status, is used to verify that adult student annuitants are entitled to payments. OPM needs to know that a full-time enrollment has been maintained.

Approximately 3,000 RI 25–49 forms will be completed per year. The form requires 60 minutes to fill out. The annual burden is 3000 hours.

For copies of this proposal, contact C. Ronald Trueworthy on (703) 908–8550.

DATES: Comments on this proposal should be received within 30 calendar days from the date of this publication.

ADDRESSES: Send or deliver comments to—

Lorraine Dettman, Chief, Operations Support Division, Retirement and Insurance Group, U.S. Office of Personnel Management, 1900 E Street, NW., room 3349, Washington, DC 20415, and

Joseph Lackey, OPM Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, NW., room 3002, Washington, DC 20503.

FOR INFORMATION REGARDING ADMINISTRATIVE COORDINATION—CONTACT: Mary Beth Smith-Toomey, Chief Administrative Management Branch (202) 606–0623.

U.S. Office of Personnel Management.

Constance Berry Newman,

Director.

[FR Doc. 92–15107 Filed 6–26–92; 8:45 am]

BILLING CODE 6325–01–M

RAILROAD RETIREMENT BOARD

Privacy Act of 1974; Proposed Changes to Systems of Records

AGENCY: Railroad Retirement Board.

ACTION: Notice of proposed changes to systems of records.

SUMMARY: The purpose of this document is to give notice of one proposed routine use in one system of records and a change in the name of the system manager in another system of records.

DATES: The system of records for which a new routine use is proposed shall be amended as proposed without further notice 30 calendar days from the date of this publication unless comments are received before this date which would result in a contrary determination. The other change shall be effective as of the date of publication.

ADDRESS: Send comments to Beatrice Ezerski, Secretary to the Board, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

FOR FURTHER INFORMATION CONTACT: LeRoy Blommaert, Privacy Act/FOIA Officer, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611, (312) 751–4548.

SUPPLEMENTARY INFORMATION:

Part I: Proposed Routine Use

The proposed routine use (RRB–22, "pp") would allow the RRB to disclose beneficiary identifying information to the Social Security Administration and to any State agency for the purpose of enabling such entity through a computer or manual matching program to assist the RRB in identifying certain female beneficiaries who remarried but who may not have notified the RRB of their remarriage. Under the Railroad Retirement Act, remarriage terminates entitlement to certain kinds of benefits. The RRB Office of Inspector General is negotiating a computer matching agreement with the Social Security Administration and initially with one state for this purose. The RRB has determined that the proposed routine use meets the compatible requirement because it is a necessary and proper use.

Part II: Changes in name of system managers

Because of a title change, we are changing the name of the system manager in system of records RRB–14.

By authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

RRB–14

SYSTEM NAME:

Freedom of Information Act Register—RRB.

* * * * *

This section should be revised to read as follows:

SYSTEM MANAGER(S) AND ADDRESS:

Director of Administration and Operations, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

* * * * *

RRB–22

SYSTEM NAME:

Railroad Retirement, Survivor, and Pensioner Benefit System—RRB

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

New paragraph "pp" is added to read as follows: pp. Identifying information for beneficiaries, such as name, SSN, and date of birth, may be furnished to the Social Security Administration and to any State for the purpose of enabling the Social Security Administration or State through a computer or manual matching program to assist the RRB in

identifying female beneficiaries who remarried but who may not have notified the RRB of their remarriage.

[FR Doc. 92-15145 Filed 6-26-92; 8:45 am]

BILLING CODE 7905-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-30842; File No. SR-NASD-92-11]

Self-Regulatory Organizations; Order Approving Proposed Rule Change of the National Association of Securities Dealers, Inc., Relating to the Subscriber Charge for NASDAQ Last Sale Information

June 19, 1992.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), on April 7, 1992, the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("Commission" or "SEC") a proposed rule change to establish a subscriber charge of $9.00 per terminal per month for access to NASDAQ last sale information through vendor services.

Notice of the proposed rule change was given in Securities Exchange Act Release No. 30689 (May 11, 1992), 57 FR 21314. The Commission received no comments on the proposal. This order grants approval of the proposed rule change.

I. Description of the Proposed Rule Change

The fee schedule for NASDAQ last sale information is found at Part IX, Subpart A, Section 6 of Schedule D to the NASD Bylaws. The present fee schedule, approved by the Commission in 1982,[1] established an escalating schedule of charges tied to the total number of NASDAQ/NMS securities for which real-time last sale information was available. As the number of NASDAQ/NMS securities increased, the NASD was authorized to charge vendors' subscribers a higher fee for access to more expansive last sale information. The approved schedule also specified a maximum charge of $10.00/terminal/month, to become effective automatically when the total number of NASDAQ/NMS issues exceeded 1,000.

Although the number of NASDAQ/NMS issues has exceeded this threshold for several years, the NASD has never charged the maximum fee authorized under this provision. Instead, the NASD deferred the imposition of the $10 charge indefinitely, and maintained the last sale fee at the level of $7.50/terminal/month.[2]

This rule change continues the NASD's indefinite deferral of the $10.00 charge while establishing an interim charge of $9.00/terminal/month for receipt of last sale information. In addition, the rule change expands the range of securities for which last sale information is provided to include regular NASDAQ securities, in addition to NASDAQ/NMS securities.[3] The charge will take effect at the same time the NASD initiates the collection and distribution of last sale information on regular NASDAQ securities, and will apply to every subscriber device receiving NASDAQ last sale information, real-time, from a commercial vendor.

II. Discussion and Conclusion

The Commission finds that approval of this proposed rule change is consistent with the Act, in particular, section 15A(b)(5) in that it provides for the equitable allocation of reasonable fees among persons using an NASD system. In addition, the Commission finds that the proposed rule change furthers the objectives set forth in section 11A(a)(1)(C)(iii) of ensuring the availability to brokers, dealers and investors of information with respect to quotations for and transactions in securities.

The Commission believes that the instant fee increase is reasonable as contemplated by the statute. Pursuant to a rule change recently approved by the Commission,[4] the NASD will begin to collect, process, and distribute last sale information to vendors for approximately 2,000 regular NASDAQ securities. Thus, real-time reporting will be available for a total of approxiamtely 4,700 NASDAQ/NMS and regular NASDAQ issues. As discussed above, in 1982 the Commission approved a fee schedule that would permit the NASD to charge a subscriber fee of $10.00/terminal/month when the number of NASDAQ/NMS issues reached 1,000. That fee increase was approved pursuant to the same statutory provisions at issue here. Thus, the fee increase hereby approved is well within the range previously approved by the Commission pursuant to section 15A of the Act.

In addition, the rule change advances the objectives of section 11A of the Act. The availability to subscribers of real-time last sale information for regular NASDAQ securities will benefit broker-dealers, investors, and issuers of those securities. The NASD represents that the proposed increase will allow it to recover developmental and operational costs for an expanded last sale service and enhancements to its surveillance monitoring capability. The Commission believes that because expanded last sale reporting advances the goals of section 11A, the fee increase is also consistent with that provision.

It is Therefore Ordered, Pursuant to section 19(b)(2) the Act, that the rule change be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30-3(a)(12).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-15151 Filed 6-26-92; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-30843; File No. SR-PSE-92-07]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by the Pacific Stock Exchange, Inc., Relating to Restructuring Options Committees and Creating the Options Allocation Committee

June 19, 1992.

On April 1, 1992, the Pacific Stock Exchange, Inc. ("PSE" or "Exchange"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b-4 thereunder,[2] filed with the Securities and Exchange Commission ("SEC" or "Commission") a proposed rule change that restructures the PSE's options committees. The proposed rule change was noticed for comment in Securities Exchange Act Release No. 30613 (April 22, 1992), 57 FR 18196. No comments were received on the proposal.[3]

Currently, the PSE's Lead Market Maker ("LMM") Appointment Committee monitors trading crowd and LMM performance, and the Exchange's Options Listing Committee ("Listing

[1] Securities Exchange Act Release No. 19108 (October 6, 1982), 47 FR 46018 (October 14, 1982).

[2] Securities Exchange Act Release No. 21169 (July 24, 1984), 49 FR 30621 (July 31, 1984).

[3] On April 10, 1992, the Commission approved an NASD rule change extending real-time trade reporting requirements to regular NASDAQ securities. See Securities Exchange Act Release No. 30569 (April 10, 1992), 57 FR 13396 (April 16, 1992).

[4] *See supra* note 3.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b-4 (1991).

[3] On May 22, 1992, the PSE amended its filing to include in its rules the member composition requirements for each of the committees. See letter from Michael D. Pierson, Staff Attorney, PSE, to Thomas R. Gira, Branch Chief, Options Regulation, SEC, dated May 22, 1992.

Committee") allocates and reallocates options. The PSE's proposal amends the Exchange's rules by discontinuing the LMM Appointment Committee and establishing the Options Allocation Committee ("Allocation Committee"). The Allocation Committee will assume the Listing Committee's responsibilities for allocating and reallocating options issues, as well as the LMM Appointment Committee's responsibility for monitoring the performance of trading crowds and LMMs. The Allocation Committee and the Options Appointment Committee ("Appointment Committee") also will assume the LMM Appointment Committee's residual responsibilities.

Specifically, under proposed section 11.10(c), the Allocation Committee will oversee the allocation, reallocation and evaluation processes concerning options issues, and will monitor trading crowd and LMM performance (*i.e.*, evaluations surveys, monitoring guaranteed markets, etc.). The Allocation Committee shall consist of 10 members as follows: (1) Two floor brokers from either the Options Floor Trading Committee ("Floor Trading Committee") or the Listing Committee; (2) two market makers/LMMs from either the Floor Trading Committee or the Listing Committee; (3) three at large floor brokers; and (4) three at large market makers/LMMs. The Allocation Committee shall be limited to no more than three members from either the Floor Trading Committee or the Listing Committee.

The proposal amends section 7(b) to allow the Listing Committee to make recommendations to the Exchange's Board of Governors regarding the listing and delisting of options. The Listing Committee's responsibilities shall include prescribing rules, regulations, requirements and procedures for the listing and delisting of options on the Exchange. The Listing Committee shall be comprised of 10 members as follows: (1) Four floor brokers; (2) five market makers/LMMs; and (3) one member of the Exchange or a general partner or officer of a member organization, or any other person who is considered to be qualified. The proposal provides that there should be two alternates, comprised of one floor broker and one market maker/LMM.

The PSE proposes to amend section 11.10(a) to allow the Appointment Committee to appoint and approve LMMs, relieve LMMs of appointments, designate interim LMMs, and decide any other LMM-related issues not assigned specifically to another committee (*e.g.*, any compensation due an LMM for any issue that reverts back to a trading crowd). The Appointment Committee shall be comprised of six members as follows: (1) Five floor brokers; and (2) one member of the Exchange or a general partner or officer of a member organization, or any other person who is considered to be qualified. The proposal also provides that there should be at least one alternate for the Appointment Committee.

Finally, the proposal amends Options Floor Procedure Advice B–13, entitled "Evaluation of Options Trading Crowd Performance," to replace "Listing Committee" with "Allocation Committee."

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with section 6(b)(3) of the Act, in that the proposal provides for a fair representation of the Exchange's members in the administration of its affairs, and also with section 6(b)(5) of the Act, in that the proposal is designed to protect investors and the public interest.[4]

In general, the Commission believes that the PSE's proposal will streamline and simplify the structure of the committees concerned with matters relating to options trading on the Exchange, thus providing for more efficient allocation of Exchange resources. In addition, the proposal will clarify the PSE's rules regarding the powers and duties of the committees and the composition of committees. The Commission believes that the proposed committee structure will allow the Exchange's members to participate closely in decisions affecting them and that the membership of the committees will help to ensure that each committee is a fair and knowledgeable forum for matters within its jurisdiction.

Specifically, the Commission believes that it is reasonable for the PSE to discontinue the LMM Appointment Committee and to establish the Allocation Committee, which will assume the Listing Committee's responsibilities for allocating and reallocating options issues as well as the LMM Appointment Committee's responsibility for monitoring the performance of trading crowds and LMMs. The Commission believes that this consolidation of committee functions is appropriate because it will allow the Allocation Committee, which is aware of trading crowd and LMM performance, to use its best judgment in allocating and reallocating options issues, thus ensuring fair treatment of the PSE's trading crowds and helping to maintain the quality of the PSE's markets by facilitating the appropriate distribution of options issues.

The Commission believes that the amendment allowing the Listing Committee to make recommendations to the Exchange's Board of Governors regarding the listing and delisting of options, in addition to the Listing Committee's existing power to prescribe rules, regulations, requirements and procedures for the listing and delisting of options on the Exchange, will help to ensure that options continue to be introduced and deleted in a fair and orderly manner on the Exchange. In addition, by transferring to the Allocation Committee the obligation to review and evaluate members, the proposal will enable the Listing Committee to focus its attention exclusively on matters relating to the listing and delisting of options, thereby providing for the prompt resolution of matters related to options listing and establishing an equitable distribution of responsibilities among the Exchange's committees.

The Commission believes that it is reasonable for the PSE to allow the Appointment Committee to appoint and approve LMMs, relieve LMMs of appointments, designate interim LMMs, and decide other LMM-related issues not assigned specifically to another committee because these additional duties are consistent with the Appointment Committee's existing responsibilities and because the Appointment Committee should provide an informed and impartial forum for matters relating to the appointment and approval of LMMs.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act,[5] that the proposed rule change (SR–PSE–92–07) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92–15152 Filed 6–26–92; 8:45 am]

BILLING CODE 8010–01–M

[4] 15 U.S.C. 78f(b)(3) and (b)(5) (1988).

[5] 15 U.S.C. 78s(b)(2) (1988).

[6] 17 CFR 200.30–3(a)(12) (1991).

[Rel. No. IC-18801; 812-7838]

Kemper Blue Chip Fund, et al.; Application

June 19, 1992.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: Kemper Adjustable Rate U.S. Government Fund, Kemper Blue Chip Fund, Kemper Diversified Income Fund, Kemper Environmental Services Fund, Kemper Global Income Fund, Kemper Growth Fund, Kemper High Yield Fund, Kemper Income and Capital Preservation Fund, Kemper International Fund, Kemper Municipal Bond Fund, Kemper Retirement Fund, Kemper Short-Term Global Income Fund, Kemper Small Capitalization Equity Fund, Kemper State Tax-Free Income Series, Kemper Technology Fund, Kemper Total Return Fund, Kemper U.S. Government Securities Fund (the "Funds"), Kemper Financial Services, Inc. ("KFS"), the Funds' investment adviser and principal underwriter, and any other open-end registered investment company established in the future that is a member of a "group of investment companies," as defined in rule 11a-3 under the Act, that is advised or distributed by KFS, with the same front-end load sales charge structure for which the imposition of the proposed contingent deferred sales charge would be appropriate (collectively, the "KFS Group").[1]

RELEVANT ACT SECTIONS: Exemption requested under section 6(c) of the Act from the provisions of sections 2(a)(32), 2(a)(35), 22(c), and 22(d) of the Act and rule 22c-1 thereunder.

SUMMARY OF APPLICATION: Applicants seek an order of the SEC permitting them to impose and, under certain circumstances, waive a contingent deferred sales charge on certain redemptions of their shares.

FILING DATE: The application was filed on December 20, 1991 and amended on May 29, 1992.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on July 14, 1992, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicants, 120 South LaSalle Street, Chicago, Illinois 60603.

FOR FURTHER INFORMATION CONTACT: Nicholas D. Thomas, Staff Attorney, at (202) 504-2263 or Elizabeth G. Osterman, Branch Chief, at (202) 272-3016 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1. The Funds are open-end management investment companies organized as Massachusetts business trusts pursuant to separate Declarations of Trust. KFS provides investment advisory and other services to, and serves as principal underwriter for, the Funds.

2. The Funds currently offer their shares for sale at net asset value plus a front-end sales charge. The Funds have eliminated the front-end sales charge on (a) Purchases of $1,000,000 or more, including purchases made pursuant to the "Combined Purchases," "Letter of Intent," and "Cumulative Discount" features described under "Special Features" in each Fund's prospectus and (b) purchases by an employer-sponsored employee benefit plan, provided that such plan has not less than 1,000 eligible employees and is maintained on the subaccount record keeping system made available through KFS (the purchases described in subparagraphs (a) and (b) above are collectively referred to herein as the "NAV Purchase Privilege").

3. The Funds propose to impose a contingent deferred sales charge ("CDSC") on the proceeds of redemptions of shares purchased pursuant to the NAV Purchase Privilege if such shares are redeemed within a specified period, currently 24 months (the "CDSC Period"), of their purchase. The CDSC is expected to be 1% of the amount of shares redeemed within one year of purchase, .5% of the amount of shares redeemed in the second year following purchase, and 0% in the third and subsequent years. No CDSC will be imposed on amounts relating to reinvestment of income, capital gains dividends, or appreciation on shares.

4. Applicants intend to waive the CDSC in the event of: (a) Redemptions in connection with (i) distributions to participants or beneficiaries of plans qualified under the Internal Revenue Code, as amended from time to time, ("IRC") section 401(a), custodial accounts under IRC section 402(b)(7), individual retirement accounts under IRC section 408(a), deferred compensation plans under IRC section 457, and other employee benefit plans, (ii) participant-directed changes in investment choices in participant-directed plans, and (iii) returns of excess contributions to these plans; (b) redemption of shares of a shareholder (including a registered joint owner) who has died; (c) redemption of shares of a shareholder (including a registered joint owner) who, after purchase of the shares being redeemed, becomes totally disabled as evidenced by a determination by the Federal Social Security Administration; and (d) limited automatic redemptions as set forth in the prospectus pursuant to a Fund's systematic withdrawal plan ("Waiver Categories").

5. KFS currently intends to credit a shareholder's account in full for any CDSC paid in connection with the redemption of any shares followed by a reinvestment of the redemption proceeds in any of the Funds within sixty days after such redemption.

Applicants' Condition

If the requested order is granted, applicants agree to comply with the provisions of provisions of proposed rule 6c-10 under the Act, Investment Company Act Rel. No. 16619 (November 2, 1988) (including any modifications that are proposed prior to the adoption of such rule), until such rule is adopted, and after such adoption will comply with such rule in the form in which it is in effect from time to time.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-15143 Filed 6-26-92; 8:45 am]

BILLING CODE 8010-01-M

[1] Kemper Investment Portfolios and Kemper Target Maturity Trust do not presently intend to rely on the requested relief and have not signed the application, but in the future they may rely on any order granted pursuant to the application if they determine to impose a contingent deferred sales charge applicable to sales of shares sold at net asset value in accordance with the representations and conditions in the application.

[Release No. 35-25557; International Series Release No. 401]

Filings Under the Public Utility Holding Company Act of 1935 ("Act")

June 19, 1992.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by July 13, 1992 to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Independent Power Corporation, et al. (31-868)

Independent Power Corporation ("IPC"), 2101 Webster Street, Suite 1550, Oakland, California 94612, a closely-held California corporation, and ESI Energy, Inc. ("ESI"), 1400 Centrepark Boulevard, Suite 600, West Palm Beach, Florida 33401, an indirect wholly owned nonutility subsidiary company of FPL Group, Inc. ("FPL Group"), a public-utility holding company exempt from registration under section 3(a)(1) pursuant to rule 2, have filed an application in connection with the proposed acquisition, through a to-be-formed special purpose limited partnership ("Impedance Power"), of the "Impedance," a 28-megawatt barge-mounted electric generating plant that is currently docked in Puerto Rico. The applicants requet (1) An order under section 3(a)(5) exempting IPC from all of the provisions of the Act, except section 9(a)(2), and (2) an order under section 3(b) exempting Impedance Power from all provisions of the Act.

IPC is engaged, through its subsidiary company, National Power Partners ("NPP"), a California limited partnership, in the development of potential qualifying facilities ("QFs") and independent power producer projects ("IPPs"). The application states that IPC will not become a "public-utility company" or a "holding company" within the meaning of the Act as a result of its participation in any IPPs being developed.

ESI, a Florida corporation, is a wholly owned nonutility subsidiary company of FPL Group Capital Inc. ("Group Capital"), which, in turn, is a wholly owned nonutility subsidiary company of FPL Group. FPL Group has one public-utility subsidiary company, Florida Power & Light Company ("FPL"), which provides electric service to the customers in the State of Florida. ESI is currently engaged in the development and financing of QFs and IPPs in the United States. The application states that ESI currently owns no "voting securities" of any "public-utility company" as those terms are defined in the Act.

The applicants propose to acquire, refurbish and operate the Impedance, through Impedance Power, which will operate and sell power exclusively outside of the United States, primarily to countries or U.S. territories or possessions in Latin America, Central America, and the Caribbean, which may be experiencing seasonal power shortages. IPC and ESI will hold indirect general partnership interests in Impedance Power through newly established special purpose subsidiary companies, IPC Newco and ESI Newco, respectively. ESI and NPP will directly hold the limited partnership interests in Impedance Power.

Impedance Power will be a "public-utility company" within the meaning of section 2(a)(5) once the refurbished Impedance becomes operational. As a result, IPC, IPC Newco, FPL Group, Group Capital, ESI, and ESI Newco will each be a "holding company" within the meaning of section 2(a)(7) with respect to Impedance Power, and Impedance Power will be a direct or indirect "subsidiary company" of each within the meaning of section 2(a)(8). The applicants request (1) an order under section 3(a)(5) exempting IPC from all of the provisions of the Act, except section 9(a)(2), and (2) an order under section 3(b) exempting Impedance Power from all provisions of the Act.

The application states that: (1) IPC will not be a company the principal business of which within the United States is that of a public-utility, following the acquisition of the Impedance, and IPC will not derive any material part of its income, directly or indirectly, from any one or more subsidiary companies the principal business of which within the United States is that of a public-utility; and (2) Impedance Power will not derive a material part of its income, directly or indirectly, from sources within the United States, and will not operate, or have any subsidiary company that operates, as a public-utility company in the United States. The application further states that, if an unqualified order under section 3(b) for Impedance Power is granted, ESI Newco, IPC Newco, ESI, and Group Capital will rely on rule 10(a)(1) to provide an exemption insofar as each is a holding company, and FPL Group will rely on rule 11(b)(1) to provide an exemption from the approval requirements of sections 9(a)(2) and 10 to which FPL Group would otherwise be subject.[1]

The application asserts that FPL Group will continue to qualify for exemption under section 3(a)(1) following the proposed transactions. In its first year of operations, Impedance Power is projected to produce $10.1 million in revenues. ESI's share of the projected net income will be $3.3 million, which is less than 1% of FPL Group's total 1991 net utility income of $382 million. The costs of acquiring and refurbishing the Impedance will not exceed $11 million, which represents approximately 0.1% of the value of FPL Group's total utility assets of $10.5 billion as of December 31, 1991.

The application further states that the approval of the Florida Public Service Commission ("FPSC") is not required in connection with the proposed transactions. ESI has provided a copy of the application to the FPSC.

Consolidated Natural Gas Company, et al. (70-7845)

Consolidated Natural Gas Company ("CNG"), a registered holding company, and its wholly-owned subsidiary company, CNG Energy Company ("CNG Energy"), both located at CNG Tower, 625 Liberty Avenue, Pittsburgh,

[1] The application states that IPC is requesting an exemption pursuant to section 3(a)(5), rather than relying on rule 10(a)(1), to enable IPC to acquire ownership interests of greater than 50% in QFs in the United States without exceeding the utility ownership limitations set forth in section 292.206(b) of the regulatins of the Federal Energy Regulatory Commission and to facilitate the financing and certification of these projects. See 18 CFR 292.206 (1991).

Pennsylvania 15222–3199, have filed an application-declaration under sections 6(a), 7, 9(a), 10, 12(b), 12(f) and 13 of the Act and Rules 43, 45, 50(a)(5) and 87–90 thereunder.

CNG and CNG Energy request authorization, through December 31, 1997, for CNG Energy, through its Natural Gas Vehicle ("NGV") Division, to engage in the following activities (collectively, "NGV Activities"): (1) Buy from suppliers and resell or lease to customers, equipment necessary to transform vehicles from gasoline to natural gas and/or combined natural gas and gasoline operation ("Conversion Equipment"); (2) install and/or maintain Conversion Equipment on customer vehicles and provide training in the use, installation and maintenance thereof; (3) design, construct, own, lease, sell and/or maintain refueling stations or mobile refueling operations for the refueling of natural gas vehicles and provide training in the use, installation and maintenance of fueling station equipment; and (4) enter into various joint arrangements with unrelated companies or individuals to engage in some or all of the activities described in (1) through (3). CNG also proposes to provide CNG Energy with up to $25 million in funds, on a revolving basis, through December 31, 1997, for the NGV Activities by purchasing additional shares of CNG Energy common stock, $1,000 par value per share ("Common Stock"), and/or by making long-term loans and-or open account advances to CNG Energy. CNG Energy currently has 112,500 shares of authorized Common Stock, of which 10,140 shares have been issued and are held by CNG.

CNG Energy proposes to conduct its NGV Activities both within and outside of the four states of Virginia, West Virginia, Pennsylvania and Ohio where local distribution companies ("LDC's") of the CNG system are located, but indicates that, during the twelve-month period beginning on the first day of January in the year following the date CNG Energy commences NGV Activities pursuant to Commission authorization, and for each subsequent calendar year thereafter, total revenues of the NGV Division derived from NGV Activities carried on in these four states will exceed total revenues of the NGV Division derived from NGV Activities carried on in all other states.

Joint arrangements with unrelated companies or individuals may take one or more of the following forms:

(1) CNG Energy may enter into contracts with unrelated parties whereby CNG Energy would agree to provide and install NGV fueling facilities and/or equipment on premises owned or leased by such parties. CNG Energy may also contract with unrelated parties to provide and install NGV conversion facilities and/or equipment and/or to provide training related to natural gas vehicle operation, fueling or conversion. Such fueling facility, Conversion Equipment and training contracts would be made with owners of vehicle fleets, such as trucking companies, bus lines, school districts, taxi companies and the like, and would be on terms negotiated at arm's length.

(2) CNG Energy may enter into contracts with unrelated parties, such as fueling equipment suppliers, auto dealers, service shops and Conversion Equipment suppliers, whereby such parties agree to perform the above-described services or provide the above-described goods as a subcontractor for CNG Energy, on premises owned or leased by CNG Energy or owners of vehicle fleets such as trucking companies, bus lines, school districts, taxi companies and the like, again on terms negotiated at arm's length..

(3) CNG Energy may acquire an ownership interest, which may be up to 100% of the voting or non-voting stock, in one or more corporations established for the sole purpose of engaging in the above described fueling, conversion and training activities. The organizational documents governing such corporations would expressly limit their activities to NGV Activities. Such corporations would be established by CNG Energy and/or unrelated parties knowledgeable and experienced in the construction and operation of gasoline stations or natural gas fueling stations, such as major gasoline retailers or individual gasoline station owners, and/or unrelated parties having expertise in vehicle repair and maintenance or specialized technical experience with natural gas vehicles, such as independent or franchised vehicle repair shops, service departments of automobile or truck dealers, or suppliers of NGV conversion or gas compression equipment.

(4) CNG Energy may establish one or more wholly-owned limited purpose subsidiary corporations to be used by CNG Energy to invest and participate in partnerships or joint ventures to be formed with unrelated persons or entities for the sole purpose of engaging in NGV fueling, conversion and/or training activities. The organizational documents governing such partnerships, joint ventures or corporations would expressly limit their activities to NGV Activities. The financing of these wholly-owned subsidiaries by CNG Energy would mirror the financing provided by CNG to CNG Energy. With respect to fueling facilities, CNG Energy may enter into partnerships or joint ventures with others knowledgeable and experienced in the construction and operation of gasoline stations or natural gas fueling stations such as major gasoline retailers or individual gasoline station owners. With respect to conversion facilities and/or equipment, CNG Energy may seek potential partners who have expertise in vehicle repair and maintenance or specialized technical experience with natural gas vehicles such as independent or franchised vehicle repair shops, service departments of automobile or truck dealers, or suppliers of NGV conversion or gas conversion equipment. With respect to training, CNG Energy may enter into partnerships or joint ventures with third parties such as owner/operators of mechanic training schools, sales representatives of compressor manufacturers and independent service station and garage owners.

(5) CNG Energy may lend funds to owners of vehicle fleets such as trucking companies, bus lines, school districts, taxi companies and the like, or may guarantee borrowings by such nonassociates from a third party lender such as a bank, to enable such nonassociates to carry out NGV Activities in connection with their business, or to acquire the equipment, personnel or facilities necessary to do so. Loans either made by CNG Energy directly or with respect to which CNG Energy is giving a guarantee will have an interest rate not exceeding 17% per annum and a maturity not exceeding 20 years. Such loans may be unsecured or secured by a lien or other security interest in NGV conversion or fueling station equipment or facilities or other real or personal property excluding utility assets.

(6) A corporation, partnership or joint venture in which CNG Energy has an ownership interest of less than 100% may obtain third party debt financing. Such financing will have an interest rate not exceeding 17% per annum and a maturity not exceeding 20 years and may be from a bank or other institutional lender.

In entering into arrangements with unrelated parties to engage in NGV Activities, CNG Energy, its subsidiaries and affiliates will limit the amount of their equity or debt investments, contractual obligations, loan guarantees, loan obligations and other financial obligations and commitments to an amount that when aggregated with all other investments, obligations and commitments made or undertaken, directly or indirectly, by CNG Energy, its subsidiaries or affiliates in connection with the NGV Activities, will not exceed $25 million.

Subsequent to December 31, 1997, neither CNG nor CNG Energy will directly or indirectly commence any new NGV Activities or new financings of NGV Activities, absent additional Commission authorization. However, commitments made before December 31, 1997, which by their terms, require performance after such date may be fulfilled after December 31, 1997, subject to the $25 million aggregate funding limitation referred to above.

Long-term loans to CNG Energy will be made pursuant to terms and conditions identical to those authorized by order dated June 28, 1991 (HCAR No. 25339) relating to intrasystem financing for 1991–1992. The loans will be evidenced by the issuance of long-term non-negotiable notes ("Notes") by CNG Energy to CNG. The Notes will mature over a period of time, not in excess of 30 years, to be determined by the officers

of CNG, and will bear interest predicated on and equal to the effective cost of money to CNG obtained through the most recent of its long-term debt financings. In the event that CNG does not issue long-term debt during the period ending December 31, 1997, the proceeds of which are allocable to loans made hereunder, long-term borrowing rates will be tied to the Salomon Brothers indicative rate for comparable debt issuances published in Salomon Brothers, Inc. Bond Market Roundup on the date nearest to the time of takedown. Such rate will be adjusted to match CNG's cost of borrowing if CNG subsequently issues long-term debt within one year of the date of takedown. Should CNG not issue long-term debt during the subsequent twelve-month period, the proceeds of which are allocable to loans made hereunder, the indicative rate at the time of takedown will be used for the life of the Notes.

Open account advances to CNG Energy will be made by CNG under letter agreement with CNG Energy and will be repaid on or before a date not more than one year from the date of the advance with interest at the same effective rate of interest as CNG's weighted average effective rate for commercial paper or revolving credit borrowings. If no such borrowings are outstanding, the interest rate shall be the same as the Federal Funds' effective rate of interest as quoted daily by the Federal Reserve Bank of New York.

CNG will obtain the funds required to finance CNG Energy's NGV Activities through internal cash generation, issuance of long-term debt securities as authorized by Commission orders dated May 31, 1989 (HCAR No. 24896) and October 11, 1991 (HCAR No. 25392), borrowings under a credit agreement, as authorized by Commission order dated March 28, 1991 (HCAR No. 25283), or through other authorizations approved or to be approved by the Commission.

CNG Energy has no full-time employees and obtains accounting, credit, financial, management, operating, technical and clerical support from Consolidated Natural Gas Service Company, Inc. ("CNG Service"), CNG's service company subsidiary, at cost and under a written service agreement dated August 31, 1982. Some NGV related services, such as identification of potential customers, station design, site preparation, supervision of station construction, maintenance and operation of stations and training in the use of fueling and conversion equipment may also be provided by LDCs of the CNG system, at cost, under service agreements similar to the service contracts between CNG Service and other CNG system companies.

Allegheny Power System, Inc., et al. (70–7888)

Allegheny Power System, Inc. ("Allegheny"), 12 East 49th Street, New York, New York 10017, a registered holding company, and its public-utility subsidiary companies, Monongahela Power Company ("Monongahela"), 1310 Fairmont Avenue, Fairmont, West Virginia 26554, The Potomac Edison Company ("Potomac"), Downsville Pike, Hagerstown, Maryland 21740, and West Penn Power Company ("West Penn"), 800 Cabin Hill Drive, Greensburg, Pennsylvania 15601, together with Allegheny Generating Company ("AGC"), 12 East 49th Street, New York, New York 10017, a public-utility subsidiary company of Monongahela, Potomac and West Penn, and Allegheny Power Service Corporation ("APSC"), 800 Cabin Hill Drive, Greensburg, Pennsylvania 15601, a service company subsidiary of Allegheny (collectively, "Applicants"), have filed a post effective amendment under section 12(b) of the Act and Rule 45 thereunder to their application-declaration originally filed under sections 6(a), 7, 9(a), 10 and 12(b) of the Act and Rules 43, 45 and 50(a)(5) thereunder.

By order dated February 28, 1992 (HCAR No. 25481) ("February Order"), the Commission authorized, among other things, AGC to issue and sell commercial paper to dealers in commercial paper in aggregate principal amounts at any one time not to exceed $150 million prior to December 31, 1993. Such commercial paper will be backed by a funding commitment through a $150 million revolving credit agreement ("Credit Agreement") by and among AGC and a group of nine banks (HCAR No. 25323, May 31, 1991).

In the February Order, the Commission also authorized Monongahela, Potomac and West Penn to guarantee, through June 30, 1993, certain percentages of the amount AGC borrows pursuant to the Credit Agreement. Applicants now seek authority to extend such guarantees through December 31, 1993.

Entergy Corporation, et al. (70–7944)

Entergy Corporation ("Entergy"), 225 Baronne Street, New Orleans, Louisiana 70112, a registered holding company, and Entergy Power, Inc. ("EPI"), 425 West Capitol Avenue, Little Rock, Arkansas 72201, its bulk power marketing subsidiary company (collectively, "Applicants"), have filed an application declaration ("Application") pursuant to sections 6(a), 7, 9(a), 10 and 12(b) of the Act.

By order dataed August 27, 1990 (HCAR No. 25136) ("1990 Order"),[2] the Commission, among other things, authorized: (1) EPI to (i) acquire from an affiliate, Arkansas Power & Light Company, a subsidiary company of Entergy, certain generating facilities, aggregating 809 megawatts of rated capacity ("Transferred Capacity"), and related properties, (ii) market bulk power generated therefrom to nonaffiliates at wholesale, (iii) issue 1,000 shares of EPI common stock, $5 par value ("Original Stock"), to Entergy for a price of $5 per share, and (iv) borrow up to $200 million from Entergy through June 30, 1992; and (2) Entergy to acquire 1,000 shares of Original Stock and to lend up to $200 million to EPI.

EPI now proposes to engage in various preliminary activities ("Preliminary Activities"),[3] through June 30, 1995, with a view to: (1) the development, acquisition, construction and/or operation of (i) additional generating facilities ("Additional Capacity"), including qualifying cogeneration facilities ("QFs") within the meaning of the Public Utility Regulatory Policies Act of 1978, and additional transmission facilities, where such development is or may be permissible,[4] (ii) related fuel reserves and ancillary equipment and facilities for the procurement, delivery and storage of such fuel reserves for the Additional Capacity,[5] (iii) facilities

[2] The 1990 Order is presently on appeal before the D.C. Circuit Court of Appeals in consolidated proceedings *sub nom. City of New Orleans* v. *S.E.C.* (No. 90–1493).

[3] The Preliminary Activities would include site investigations, feasibility studies, preliminary design and engineering, licensing and permitting, acquisition of project rights and options; negotiation of asset acquisition, power sales, fuel supply, steam sales, engineering and other related contracts; development of financing programs, preparation of bids and other proposals in response to requests for proposals and other solicitations for development of such projects and facilities, and other comparable preliminary activities.

[4] The Application states that EPI intends to sell power from the Additional Capacity at wholesale to other electric utilities (including possibly to one or more Entergy System operating companies) and to the steam host industrial customer(s) of any cogeneration facility in which EPI has an ownership interest. The Application further states that the investments in the Additional Capacity and transmission lines would be made through: (1) Direct ownership of the facilities; (2) acquisitions of common stock or other securities of project entities; (3) participation, whether directly or indirectly through special purpose entities, in general or limited partnerships, joint ventures or project financings; and/or (4) participation in other financing arrangements.

[5] The Application states that EPI would offer excess fuel, transportation and/or storage capacity ("Excess Capacity") at market rates to nonaffiliates

Continued

physically associated with the Additional Capacity that would be used to supply steam or process heat to commercial or industrial customers at market rates, and (iv) transportable steam production and/or electric generating equipment that would be leased to nonaffiliates at market rates;[6] and (2) the sale to nonaffiliates at market rates of by-products of electric generation from the Additional Capacity and Transferred Capacity, such as fly ash or sludge. In addition, EPI proposes, through June 30, 1995, to provide to nonaffiliates at market rates: (1) Various consulting services;[7] and (2) power "brokering" services with respect to electric generation and transmission resources,[8] whereby, for a negotiated fee, EPI would match a willing buyer and a seller of wholesale power which it is unable to fulfill from its own resources (collectively, "Related Services").[9]

The Applicants state that they will seek further authorization in a new filing prior to the acquisition, construction, installation or implementation of any particular project resulting from the Preliminary Activities and for any further financing with respect thereto, whether directly or through acquisitions of securities or interests in partnerships, joint ventures or otherwise.

The Applicants also seek authority: (i) For EPI to amend its charter to allow the issuance of up to one million shares of common stock, with no par value ("New Stock") [10]; (ii) for EPI to issue notes to Entergy and for Entergy to acquire such notes from EPI, under a new loan agreement ("New Loan Agreement"), in an amount up to $30 million in connection with the Preliminary Activities, through June 30, 1995, at an interest rate equal to the prime rate of Morgan Guaranty Trust Company of New York, payable quarterly in arrears, on an unsecured basis prepayable at any time without penalty, with no sinking fund or early amortization provisions and payable in full on June 30, 1995; and (iii) for Entergy to acquire from EPI, and for EPI to issue and sell to Entergy, up to 30,000 shares of New Stock at the rate of $1,000 per share, with all proceeds being allocated to stated capital.[11] In no event will the combination of borrowings under the New Loan Agreement and amounts derived from the sale of New Stock exceed $30 million in the aggregate at any one time.

Appalachian Power Company (70–7968)

Appalachian Power Company ("APCO"), 40 Franklin Road, Roanoke, Virginia 24022, an electric public-utility subsidiary company of American Electric Power Company, Inc., a registered holding company, has filed a declaration under section 12(d) of the Act and Rule 44 thereunder.

APCO proposes to sell certain of it assets to Steel of West Virginia, Inc. ("Steel"), an industrial customer, for a cash purchase price of $189,021, which is based on the present day depreciated cost of $186,721. The assets to be sold consist of electric transformation facilities and other related equipment located upon real estate owned by APCO in Huntington, West Virginia.

APCO will repair and maintain facilities and charge steel for the costs of these services. The projected annual maintenance costs for the facilities are $2,000.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92–15153 6–26–92; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 35–25558; International Series Release No. 402]

Filings Under the Public Utility Holding Company Act of 1935 ("Act")

June 22, 1992.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by July 16, 1992 to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Dominion Resources, Inc., et al. (70–7967)

Dominion Resources, Inc. ("Dominion"), a Virginia public-utility holding company exempt from registration under section 3(a)(1) of the Act pursuant to rule 2, and Dominion Energy, Inc. ("Dominion Energy"), its wholly owned nonutility subsidiary company, both of P.O. Box 26532, 901 East Byrd Street, Richmond, Virginia 23261–6532 ("Applicants"), have filed an application in connection with the

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or at cost to affiliates in the event such Excess Capacity should become available, provided that the amount of such Excess Capacity sold to third parties would not exceed in any given 12-month period the total capacity used by EPI's projects.

[6] The Application states that EPI would engage in such activities with respect to the acquisition and leasing of transportable generating equipment in a manner consistent with the integration requirements of the Act.

[7] Such consulting services will include: (1) Management services in respect of generating projects, transmission facilities and thermal energy facilities, particularly in the areas of strategic planning, feasibility studies and policy and organizational matters; (2) technical services in respect of such projects and facilities, particularly in the areas of design, engineering, procurement and construction; and (3) training services in respect of such projects and facilities, particularly in the areas of operation and maintenance.

[8] The Applicants state that EPI would not directly contract for, or take title to, the power but merely would match a seller and a buyer of such power.

[9] From 1983 to 1985, Electec, Inc. ("Electec"), a nonutility subsidiary company of Entergy, was engaged in studying and developing the cogeneration part of the Entergy System business. See HCAR Nos. 22818 (January 11, 1983); 23200 (January 13, 1984); 23569 (January 15, 1985); and 23899 (November 7, 1985). Electec's authorization with respect to QFs has expired. The Applicants are now proposing that upon receipt of Commission authorization requested herein, EPI would succeed Electec as the sole Entergy System subsidiary company authorized to investigate and invest in cogeneration projects and market expertise based upon its experience in electric generation, thermal energy and transmission projects. Electec would continue to market Entergy System capabilities and expertise for all companies other than EPI.

The Applicants further state that there would be no overlapping or concurrent authority granted to EPI and Electec as to the same subject matters.

[10] The existing 1,000 shares of Original Stock would be converted into New Stock upon the first issuance of New Stock.

[11] It is contemplated that Entergy would make its initial investment in the Preliminary Activities in the form of loans under the New Loan Agreement, at the rate of approximately $10 million per year through June 30, 1995. As external financings of the various projects are accomplished, all or a portion of the loans allocable to a particular project might be converted to an equivalent amount of EPI common equity through the issuance of New Stock to Entergy. Alternatively, Entergy may decide to acquire shares of New Stock in an aggregate amount of up to approximately $30 million without recourse to the New Loan Agreement.

proposed acquisition of an interest in an Argentine electric public-utility company, Central Termica Alto Valle S.A. ("Alto Valle"). Applicants request an unqualified order of exemption pursuant to section 3(b) of the Act for Dominion Management Argentina S.A. ("DMASA"), a to be formed, wholly owned Argentine subsidiary of Dominion Energy, and Alto Valle. Alternatively, Applicants request an order of the Commission under sections 9(a)(2) and 10, approving the proposed acquisition of interests in Alto Valle and DMASA, and granting exemptions under section 3(a)(5) from all provisions of the Act except section 9(a)(2) to Dominion Energy, Dominion Generating S.A. ("DGSA"), an Argentine company wholly owned by Dominion Energy, and Bidco, a to be formed partially owned Argentine subsidiary company of DGSA.

Dominion, through its wholly owned utility subsidiary company Virginia Electric and Power Company, generates, transmits, distributes and sells electric power in Virginia and northeastern North Carolina. During 1991, Dominion's electric revenues amounted to approximately $3.69 billion.

Alto Valle is a government owned Argentine corporation formed to hold a generating station with a capacity of approximately 97.8 MW that sells its power into the Argentine centrally dispatched power grid. The Argentine government intends to sell 90% of Alto Valle to private investors. The remaining 10% of the shares of Alto Valle will be sold to the employees of Alto Valle pursuant to an employee stock ownership plan.

DGSA intends to acquire 60% of the voting securities of Bidco which will bid for 90% of the voting securities of Alto Valle.[1] If Bidco's bid is successful, Dominion will hold a 54% indirect ownership interest in Alto Valle.

It is anticipated that DMASA will enter into an operating agreement concerning the Alto Valle generating station. DMASA as operator will depend primarily on locally hired employees and does not anticipate having more than two senior Dominion Energy United States personnel assigned to Alto Valle in Argentina. Other than the personnel transfer described above and the financial commitment mentioned below, there will be no business transactions or financial commitments between Alto Valle and Dominion or any of Dominion's other subsidiaries.

Though the price for the Alto Valle interest has not yet been determined, Dominion states that it will invest up to $500 million. Dominion will finance its indirect investment in Alto Valle from existing working capital, short-term borrowing or cash flow from operations. Revenues, including operating fees, and net income which Dominion expects from its Alto Valle interest are expected to be less than 5% of the utility revenues and net income of Dominion as a whole. Five percent of Dominion's 1991 utility revenues is approximately $189 million and 5% of Dominion's 1991 net income is approximately $23 million. Dominion states that it will continue to qualify as an exempt holding company under section 3(a)(1) following the acquisition.

As a result of the acquisition of Alto Valle, Dominion, Dominion Energy, DGSA and Bidco will each be a "holding company" within the meaning of section 2(a)(7) with respect to Alto Valle. Alto Valle will be a direct or indirect "subsidiary company" of each within the meaning of section 2(a)(8). DMASA will also be an "electric utility company" within the meaning of section 2(a)(3) because it will operate Alto Valle.

Applicants request unqualified orders of exemption under section 3(b) for Alto Valle and DMASA. Applicants state that neither DMASA nor Alto Valle will derive any material part of its income, directly or indirectly, from sources within the United States, nor will they operate, or have any subsidiary company that operates, as a public-utility company in the United States. The application also states that, if unqualified exemptions are granted, Dominion Energy, DGSA and Bidco will rely upon rule 10(a)(1) to provide an exemption insofar as each is a holding company; and Dominion, Dominion Energy and DGSA will rely on rule 11(b)(1) to provide an exemption from the approval requirements of sections 9(a)(2) and 10 to which they would otherwise be subject.

If unqualified orders of exemption are not granted, Applicants request authorization under sections 9(a)(2) and 10 to organize and acquire DMASA and to acquire an interest in Alto Valle. Applicants also request orders under section 3(a)(5) exempting Dominion Energy, DGSA and Bidco from all provisions of the Act, except section 9(a)(2). Applicants state that none of Dominion Energy, DGSA or Bidco is engaged in the business of a public-utility company in the United States, or will derive a material part of its income, directly or indirectly, from any one or more subsidiary companies which are a company or companies the principal business of which within the United States is that of a public-utility company.

Applicants will inform the appropriate state regulators of the proposed transactions and will provide a letter from them stating that the proposed activities do not require their prior approval.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-15150 Filed 6-26-92; 8:45 am]

BILLING CODE 8010-01-M

[1] The other shareholder of Bidco will be Cooperativa Provinciale de Servicios Publicos y Comunitarios des Neuquen Limitada, Ciudad de Neuquen, Argentina, a cooperative that, among other things, distributes power in the city of Neuquen. Upon privatization, the cooperative will purchase 30% of the power generated by Alto Valle.

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #2561]

Virginia Amendment #1, Declaration of Disaster Loan Area

The above-numbered Declaration is hereby amended in accordance with an amendment dated May 30, 1992, to the President's major disaster declaration of May 19, to include Pittsylvania County and the Cities of Lexington, Lynchburg, and Radford in the State of Virginia as a disaster area as a result of damages caused by severe storms and flooding on April 21-22, 1992.

In addition, applications for economic injury loans from small businesses located in the contiguous county of Halifax, Virginia and Caswell and Person Counties in the State of North Carolina may be filed until the specified date at the previously designated location.

All other information remains the same, i.e., the termination date for filing applications for physical damage is July 17, 1992, and for economic injury until the close of business on February 19, 1993.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: June 5, 1992.

Bernard Kulik,

Assistant Administrator for Disaster Assistance.

[FR Doc. 92-15103 Filed 6-26-92; 8:45 am]

BILLING CODE 8025-01-M

Department of State

Office of the Historian

[Public Notice 1641]

Advisory Committee on Historical Diplomatic Documentation; Meeting

The Advisory Committee on Historical Diplomatic Documentation will meet July 23 and 24, 1992, at 9:30 a.m. in the Department of State.

The Committee, which as established by Public Law 102–138, section 198 of October 28, 1991, advises the Department of State on matters concerning the preparation, declassification, and publication of the Foreign Relations of the United States historical documentary series. The Committee also reviews procedures for the Department's declassification review of documents older than 30 years and their transfer to the National Archives and Records Administration for public inspection.

The Committee will meet in open session from 9:30 a.m. on the morning of Thursday, July 23, 1992, until noon of that day, in room 1207, Main State. The remainder of the Committee's sessions, until the end of this session on Friday, July 24, at 4 p.m., will be closed to the public in accordance with section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463). It has been determined that discussions during these portions of the meeting will involve consideration of matters not subject to public disclosure under 5 U.S.C. 552(c)(1), and that the public interest requires that such activities will be withheld from disclosure.

Questions concerning the meeting should be directed to William Z. Slany, Executive Secretary, Advisory Committee on Historical Diplomatic Documentation, Department of State, Office of the Historian, Washington, DC, 20520, telephone (202) 663–1123.

Dated: June 18, 1992.

William Z. Slany,

Executive Secretary.

[FR Doc. 92–15129 Filed 6–26–92; 8:45 am]

BILLING CODE 4710–11–M

DEPARTMENT OF STATE

Office of the Legal Adviser

[Public Notice 1642]

Submission of Claims Against Iraq to the United Nations Compensation Commission

This notice concerns the procedures for filing a claim against Iraq with the United Nations Compensation Commission for losses, damage or injury suffered as a result of Iraq's illegal invasion and occupation of Kuwait. It supplements Public Notice 148 (56 FR 47979, September 23, 1991) and Public Notice 1545 (57 FR 421, January 6, 1992). For further information, and to obtain claim forms, contact the Office of the Assistant Legal Adviser for International Claims and Investment Disputes, 2100 K Street, NW., suite 402, Washington DC 20037–7180. Telephone (202) 563–2412.

The United Nations Compensation Commission has circulated "Form D" to be used in filing claims of individuals for losses sustained as a result of Iraq's illegal invasion and occupation of Kuwait that could not be filed on claim forms previously released by the Commission. This form should be used by those whose losses exceed $100,000 and have not yet filed a claim with the Commission, or have filed a claim for the first $100,000 and want to file for any additional losses not previously claimed. It should also be used by those who made payments or provided relief to other eligible individuals. (A separate form will be circulated in several months for claims of corporation and other legal entities.)

To make a claim, a claimant must fill out Form D and return it to the Office of the Assistant Legal Adviser for International Claims and Investment Disputes in the State Department. The Assistant Legal Adviser's office will consolidate the claims and submit them to the Commission. The Department will submit the claims of United States citizens, and is considering submitting the claims of residents of the United States. Claimants that are not U.S. citizens should include a statement with their claim form indicating whether, at the time of the invasion, any members of their immediate family (spouse, parent, child) were citizens or permanent residents of the United States and describe the losses sustained by those family members. They should also include documentation of their residency status or citizenship. If no member of their family was a citizen or permanent resident at the time of the invasion, claimants should describe how they came to the United States and provide documentation as to their residency status here. This information will help the Department establish a basis on which to consider submitting their claim.

As of December 15, 1992, the Commission will begin processing claims submitted by governments on Form D up to that date. The final deadline for the submission of these claims by Governments in July 1, 1993, but it is in a claimant's interest that her claim be submitted as soon as possible. The Department will need time to review the forms and documentation received, to follow up with claimants where necessary, and to prepare a consolidated statement summarizing the claims. Therefore, claimants wishing to ensure that their claim is considered as soon as possible should return a completed form by September 15, 1992. The Department urges claimants to file by this date, but in any event no later than January 15, 1993.

Dated: June 19, 1992

Ronald J. Bettauer,

Assistant Legal Adviser for International Claims and Investment Disputes.

[FR Doc. 92–15128 Filed 6–26–92; 8:45am]

BILLING CODE 4710–08–M

DEPARTMENT OF TRANSPORTATION

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ended June 19, 1992

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 *et. seq.*). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: 48199.

Date filed: June 16, 1992.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: July 14, 1992.

Description: Application of Executive Flight Management/Trans American Charter Ltd., pursuant to section 401(d)(3) of the Act and subpart Q of the Regulations for a certificate of public convenience and necessity authorizing interstate charter air transportation of passengers only.

Docket Number: 48203.

Date filed: June 17, 1992.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: July 15, 1992.

Description: Application of American Trans Air, Inc. pursuant to section 401 of

the Act and subpart Q of the Regulations, applies for a certificate of public convenience and necessity authorizing it to provide scheduled foreign air transportation of persons, property and mail between any point or points in the United States and Lagos, Nigeria.

Docket Number: 48207.
Dated filed: June 19, 1992.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: July 17, 1992.
Description: Application of CCAir, Inc., pursuant to section 401(d)(1), and subpart Q of the Regulations requests a certificate of public convenience and necessity authorizing interstate and overseas scheduled air transportation of persons, property and mail.

Docket Number: 45723.
Dated filed: June 15, 1992.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: July 13, 1992.
Description: Application of Transportes Aereos Ejecutivos, S.A. de C.V., pursuant to section 402 of the Act and subpart Q of the Regulations, requests an amendment of its foreign air carrier permit to authorize it to engage in daily scheduled air transportation of persons, property and mail, between Mexico City (MEX-Benito Juarez)/Toluca (TLC-Morelos), Mexico on the one hand, and Las Vegas, NV (LAS) on the other hand, using large aircraft.

Phyllis T. Kaylor,
Chief, Documentary Services Division.

[FR Doc. 92-15236 Filed 6-26-92; 8:45 am]
BILLING CODE 4910-62-M

Federal Aviation Administration

[Summary Notice No. PE-92-19]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before July 20, 1992.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC-10), Petition Docket No. ____, 800 Independence Avenue, SW., Washington, DC 20591.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-10), room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-3132.

FOR FURTHER INFORMATION CONTACT: Mr. C. Nick Spithas, Office of Rulemaking (ARM-1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-9704.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of part 11 of the Federal Aviation Regulations (14 CFR part 11).

Issued in Washington, DC, on June 23, 1992.

Deborah E. Swank,
Acting Manager, Program Management Staff, Office of the Chief Counsel.

Petitions for Exemption

Docket No: 26846.
Petitioner: University of North Dakota Center for Aerospace Sciences.
Sections of the FAR Affected: 14 CFR 141.65.
Description of Relief Sought: To add authorization for administration and grading of the following two computer-generated tests to Pilot School Certificate: Flight Instructor Certification Airplane-Single Engine, and Flight Instructor Certification Instrument-Airplane.

Docket No: 26773.
Petitioner: United Technologies Hamilton Standard.
Sections of the FAR Affected: 14 CFR 21.325(b) (1) and (3).
Description of Relief Sought: To allow United Technologies Hamilton Standard to issue export approvals for Class, I, II, and III propeller products manufactured and located at Ratier-Figeac, Figeac, France.

Docket No: 26876.
Petitioner: Wings West Airlines, Inc.
Sections of the FAR Affected: 14 CFR 121.371(a) and 121.378.
Description of Relief Sought: To permit Wings West Airlines, Inc, to utilize certain foreign original equipment manufacturers/repair agencies to inspect, repair, and overhaul components and parts used on the BAe Jetstream 3201, SAAB 340B, and Aerospatiale ATR72 aircraft operated by Wings West.

Docket No: 26888.
Petitioner: Aretz Flying Service, Inc.
Sections of the FAR Affected: 14 CFR part 141, appendix A, paragraph 5(c).
Description of Relief Sought: To allow Aretz Flying Service, Inc., to administer Stage II flight checks before a student's first solo cross-country flight instead of after a student's first solo cross-country flight.

Dispositions of Petitions

Docket No: 26528.
Petitioner: Bell Helicopter Textron, Inc.
Sections of the FAR Affected: 14 CFR 133.45(e)(1).
Description of Relief Sought/Disposition: To permit Bell Helicopter Textron, Inc., to participate in training exercises and actual conduct of the Dallas/Fort Worth Metroplex Helicopter Emergency Lifesaver Plan (HELP). HELP involves lifting firefighters in a suspended, helicopter-lifted net (Billy Pugh safety net) to the tops of high-rise buildings.
Denial, June 15, 1992, Exemption No. 5467.

Docket No: 26658.
Petitioner: Fox Valley Technical College.
Sections of the FAR Affected: 14 CFR 147.36.
Description of Relief Sought/Disposition: To allow Fox Valley Technical College to have specialized instructors, who are not certificated mechanics, to teach Basic Electricity and Basic Welding subjects.
Grant, June 17, 1992, Exemption No. 5468.

Docket No: 26790.
Petitioner: Casino Express Airlines.
Sections of the FAR Affected: 14 CFR 121.411(a)(6).
Description of Relief Sought/Disposition: To permit Captain Ken Lord of Casino Express Airlines to conduct proficiency checks, proficiency training, and line checks without holding at least a Class III medical certificate.
Denial, June 5, 1992, Exemption No. 5463.

[FR Doc. 92-15133 Filed 6-26-92; 8:45 am]
BILLING CODE 4910-13-M

Intent to Rule

AGENCY: Federal Aviation Administration, DOT.

ACTION: Correction to Notice of Intent to Rule on Application to Impose a Passenger Facility Charge (PFC) at the Southwest Florida Regional Airport, Fort Myers, Florida.

SUMMARY: This correction indicates the date which FAA determined the application complete.

In notice document 92-12617 beginning on page 22856 in the issue of Friday, May 29, 1992, make the following corrections:

In the 3d column, insert date of regional letter of completeness to read "May 15, 1992."

Issued in Atlanta, Georgia, on June 8, 1992.

Robert Chapman,

Assistant Manager, Airports Division Southern Region.

[FR Doc. 92-15134 Filed 6-26-92; 8:45 am]

BILLING CODE 4910-13-M

National Highway Traffic Safety Administration

[Docket No. 92-12, Notice No. 02]

Guidelines for State Observational Surveys of Safety Belt and Motorcycle Helmet Use

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Final Notice of Guidelines for State Observational Surveys of Safety Belt and Motorcycle Helmet Use.

SUMMARY: This notice announces final guidelines and certification procedures for state safety belt and motorcycle helmet use surveys which are to be conducted in connection with an ongoing Federal grant program. Section 153 of Title 23, United States Code, authorizes the Secretary of Transportation to award grants to states that have in effect safety belt and motorcycle helmet use laws. To be eligible for second and third year grant funds, states also must have achieved specified rates of compliance with these laws. The Act authorizes the Secretary to issue guidelines for the measurement of these compliance rates.

DATES: These guidelines are effective on June 29, 1992.

FOR FURTHER INFORMATION CONTACT: Dr. Jeffrey Michael, Office of Occupant Protection, NTS-11, National Highway Traffic Safety Administration, 400 Seventh St., SW., Washington, DC 20590; phone (202) 366-2755.

SUPPLEMENTARY INFORMATION: Section 1031 of the recently passed Intermodal Surface Transportation Efficiency Act of 1991 (hereafter referred to as "the Act") added a new section 153 to title 23 of the United States Code. This section authorizes the Secretary of Transportation to establish a grant program to support states in adopting and implementing safety belt and motorcycle helmet use laws.

To qualify for first-year funding in this three-year grant program, a state must have in effect both a law requiring individuals on a motorcycle to wear helmets and a law requiring individuals in the front seat of a passenger vehicle to wear safety belts or be secured in child passenger safety systems. In the two subsequent years, there are also compliance rate requirements. The Act specifies that states must measure compliance by methods which conform to guidelines issued by the Secretary to ensure that these measurements are accurate and representative. After FY 1994, the Act provides penalties for each year that a state does not have both a safety belt and a motorcycle helmet law in effect.

On March 24, 1992, NHTSA published a notice in the **Federal Register** [57 FR 10210) which proposed guidelines for observational surveys of safety belt and motorcycle helmet use that states must use to be eligible for second and third year grant funds. In addition, this notice proposed a procedure by which states would certify compliance with the issued observational survey guidelines.

Comments to the Proposed Guidelines

Twenty four comments were received in response to these proposed guidelines. Responses were received from sixteen state departments of transportation or highway safety offices, three universities, four highway user or highway safety associations and one state police department. These comments addressed various aspects of the guidelines and, in general, were split between recommendations for greater stringency or specificity in the survey guidelines and recommendations for less stringency in these guidelines. Following is an analysis and resolution of comments to the proposed notice.

1. Probability-Based

The proposed guidelines specified that the sample identified for the survey must have a probability-based design such that: estimates are representative of safety belt and motorcycle helmet usage for the population of interest in that state; and, sampling errors can be calculated for each estimate produced.

Comments on this issue were generally supportive of the requirement for a probability-based sample. Overall, six commenters specifically mentioned their support of the requirement for a probability-based sample. One commenter suggested that the requirement be relaxed somewhat to allow the exclusion of low-volume roadways. Two commenters recommended that non-probability samples, specifically data from police accident reports, be allowable.

NHTSA remains convinced that a probability sample is necessary to meet the intention of the Act in providing an accurate and representative estimate of safety belt and helmet use. This requirement is, therefore, retained in the final guidelines. Further, the request for allowing the exclusion of low-volume roadways will be met, at least in part, by the allowance which was proposed for excluding rural areas totaling not more than 15 percent of the state population. (This issue is addressed in the later section titled Demographics.)

2. Observational

The proposed guidelines specified that sample data must be collected through direct observation of safety belt usage and motorcycle helmet usage on roadways within the state. Safety belt use was to be determined by observation of shoulder belt use.

As noted above, two commenters recommended that the guidelines allow estimates of compliance rates based on data from sources other than observation surveys. The rationale for these recommendations was that data from state accident records could be produced at far less cost than could data from an observation survey. One of these commenters recommended that a study be performed to correlate belt use estimates derived from accident data with those derived from observation data.

The agency continues to believe that observation data provide the most accurate and reliable estimates of safety belt and motorcycle helmet use. Past research has indicated that other methods, such as self-report techniques or accident reports, will not provide use rate information which will be accurate and representative as required by the Act. Therefore, the proposed requirement that observational data be used is adopted in these final guidelines.

3. Sample Design

The proposed guidelines did not specify a particular sample design for safety belt and motorcycle helmet surveys. Rather, the proposal required

only that the sample design meet certain performance requirements such as level of precision. The agency's rationale in proposing this requirement was that many different designs could produce sufficiently accurate results and some variability between individual designs would be necessary to accommodate specific conditions in each state.

Ten commenters addressed the issue of sample design. Nine of these recommended that the guidelines be more specific in the definition of primary sampling units to be utilized, the weighting system to be employed, the types of observation sites to be selected, and the observation protocol to be followed. The rationale provided by these commenters was generally that they believed further specification of the required sample design would enhance both the accuracy and the consistency of state safety belt and helmet surveys. In addition, one commenter recommended that the guidelines remain sufficiently flexible to allow for the selection of alternative sites in cases where the randomly selected site has safety or accessibility problems.

The agency believes that these comments have merit. The proposed guidelines were intended to provide states with maximum flexibility in the specific design of state surveys. The agency recognized that allowing this flexibility could compromise the consistency of these surveys. However, NHTSA believed that this flexibility would be necessary to avoid unnecessarily burdening states with a survey design requirement which may not be appropriate for conditions in that state.

Comments from the states and concerned associations indicate that greater attention should be given to increasing the consistency of these surveys. Therefore, NHTSA has determined that the guidelines should include some additional specification of observation protocol. Also, to provide additional guidance, a recommended (but not required) survey design is included as an appendix to this Notice.

The agency believes that the consistency of state surveys will be improved through incorporating further specification of observational protocol in the guidelines. Thus, the following specifications are being added to the guidelines: (1) A requirement for a predetermined policy for alternate site selection, if necessary; (2) a requirement for predetermined instructions as to which road, which lane, and which direction of traffic flow is to be observed at an observation site; and, (3) a requirement for predetermined instructions on how observers are to start and stop observations in the traffic flow. The agency believes that these specifications for observation protocol will provide increased consistency while still allowing flexibility in survey design.

4. Required Precision

The proposed guidelines specified that the relative error (standard error divided by the estimate) of the estimate of safety belt usage must not exceed 5 percent. The proposal also stated that as long as the motorcycle data were collected within the constraints of the belt sample design, the precision for these data would be acceptable.

Eight commenters specifically addressed the issue of required precision. Two of these recommended that the requirement be made less strict, five concurred with the proposed level of precision, and the remaining commenter recommended that the agency further describe and define the precision requirements.

The agency continues to believe that the proposed level of precision is appropriate. No new information was presented by any commenter which would suggest that the intent of the Act could be more appropriately met with a different precision requirement. Therefore, the proposed requirement that the relative error of the estimate not exceed five percent is retained in the final guidelines.

Further, the agency has determined that there may be confusion among the public regarding the proposed precision requirements and that this confusion has lead to varying interpretations of the proposal. To clarify this issue, the following description is provided:

The requirement that the relative error not exceed five percent means that the standard error of the estimate of safety belt use cannot exceed five percent of the estimated value. For example, if the estimated use rate is 50 percent, the standard error of that estimate cannot exceed five percent of 50 percent, or 2.5 percentage points. An estimate of 60 percent would require a standard error of the estimate of no more than 3 percentage points. An estimate of 70 percent would require a standard error less than or equal to 3.5 percentage points.

To express the safety belt use estimate with a 95 percent confidence interval, it is common practice to establish confidence bounds two standard deviations (or, in this case, two standard errors) from the estimate. Thus, an estimate of 50 percent with a standard error of 2.5 percentage points would indicate a 95 percent probability that the true population value (the actual safety belt use rate) would be 50 percent plus or minus 5 percentage points. For an estimate of 60 percent with a standard error of 3 percentage points, there would be a 95 percent probability that the true population value would be 60 percent plus or minus 6 percentage points.

Below is a table of usage rates and the maximum standard errors allowed under the precision requirements in the guidelines.

MAXIMUM ALLOWABLE STANDARD ERROR

Estimated Safety Belt Usage (percent) (A)	Relative Error Requirement (percent) (B)	Maximum Standard Error Allowed (percent) (A × B)
50	5	2.5
60	5	3.0
70	5	3.5
80	5	4.0
90	5	4.5

Using this precision requirement and the anticipated belt usage results, a state can approximate how many observation sites need to be sampled. More information on suggested sample sizes can be found in the appendix.

In addition to the comments regarding the required relative error of the estimate, twelve commenters addressed the proposed allowance of combined safety belt and motorcycle helmet surveys. Nine of these commenters concurred with the proposal, supporting the allowance for combined surveys. One commenter recommended that the guidelines either specify separate surveys or not require a helmet survey at all. Two other commenters recommended that separate surveys be allowed, at the state's discretion.

In the proposed guidelines, comments were solicited on the appropriate requirements for states that had previously conducted a complying safety belt survey which did not include motorcycle helmet observations. Comments were invited regarding whether these states should be required to conduct a separate helmet use survey, or if some type of alternative assessment would be sufficient. Three commenters addressed this issue, two recommended that the guidelines specify a probability sample for estimation of helmet use in all cases and that a level of precision be specified, and one recommended that some other method be allowed.

NHTSA believes that the comments which recommended a requirement for a probability sample for estimating motorcycle helmet use have the greatest merit. Further, no commenter has

recommended an alternative means of assessing compliance with the state helmet use law which would be accurate and representative as required by the Act. Therefore, the agency has determined that only a probability-based observation survey shall be acceptable for measuring helmet use.

The guidelines will retain the proposed allowance for combined surveys and include an allowance for the conduct of a separate probability-based survey for estimating motorcycle helmet use. If a state chooses to conduct a separate survey for helmet use, NHTSA has determined that the level of precision for this survey shall be the same as that for the safety belt survey, a relative error of the estimate of 5 percentage points. The agency believes that this requirement will not place an unreasonable burden on states because, with the high expected use rate in states with helmet use laws, only a modest number of observation sites will be required to achieve a relative error of the estimate of 5 percent.

The agency does not agree with the one commenter who suggested that helmet use data which was collected under the safety belt survey design would amount to little more than a convenience sample and therefore would not be representative. Nor does the agency believe that, because expected helmet use in a state with a use law is very high, a survey is unnecessary. The Act specifies that motorcycle helmet use law compliance be measured. Further, the agency believes that, if these surveys are performed in conjunction with a complying safety belt survey, or are performed separately to the specified level of precision, the estimate of helmet use will be representative and sufficiently accurate for the purposes of these guidelines.

5. Population of Interest

The proposed guidelines specified that drivers and front seat outboard passengers must be eligible for observation in the safety belt survey and that safety belt use be determined by observed use or non-use of a shoulder belt. Five commenters addressed the issue of which vehicle occupants should be included in the safety belt survey. Two of these recommended that the requirement be reduced to driver-only for observations on freeways. Two others recommended that the requirement be increased to all vehicle passengers. One commenter recommended that the guidelines be clarified with respect to the coverage of children.

NHTSA continues to believe that the most appropriate population for safety belt use observation is drivers and front seat outboard passengers. The agency's rationale for retaining this requirement is that: the Act specifies that a minimum of front seat coverage is required for grant eligibility; most state safety belt use laws cover only the front seat; most occupants occupy the front outboard seating positions; most passenger vehicle front outboard seating positions are equipped with lap/shoulder belts; front center seating positions are typically fitted with lap-only belts; and, verification of lap-only belt use is impractical in non-obtrusive observation surveys. Therefore, the proposed population of interest is unchanged in the final guidelines.

With regard to the coverage of children, the agency believes that the specification in the Act includes coverage of children. The Act states that, to be eligible for the grant program, the state safety belt law must require use of a safety belt by individuals other than children secured in child restraint systems. Thus, an unrestrained child in the front outboard seating position shall be identified as an unrestrained occupant. The agency has determined that this issue can be clarified by adding observation of the use or non-use of a child restraint system to the criteria for identifying safety belt use. These criteria are modified accordingly in the final guidelines.

Regarding the specification for shoulder belt observation, two commenters recommended that both lap and lap/shoulder belts be observed and one commenter specifically supported the proposed requirement of identifying belt use by the presence of a shoulder belt. The agency continues to believe that the appropriate method of determining safety belt use is by the observation of the use or non-use of a shoulder belt or child restraint system. This is because: as discussed previously, most passenger vehicle front outboard seating positions are equipped with lap/shoulder belts; front center seating positions are typically fitted with lap-only belts; and, verification of lap-only belt use is impractical in non-obtrusive observation surveys. Therefore, the final guidelines specify that safety belt use be determined by observation of the use or non-use of a shoulder belt or child restraint system.

The proposal also stated that, at a minimum, all passenger cars must be eligible for observation in the safety belt survey. As an option, the proposal specified that states may choose to survey all vehicles and/or all passengers covered by their state safety belt law. The proposal also specified that all motorcycle drivers and passengers must be eligible for the motorcycle helmet use portion of the survey.

A total of five comments were received regarding the specification of vehicle types for observation. Three commenters recommended that the guidelines require observation of passenger cars, light trucks and vans rather than passenger cars only. One commenter supported the proposal of requiring only passenger car observation and one commenter recommended requiring observation of whichever vehicles are covered by the state safety belt use law.

The agency continues to believe that the proposed requirement for observation of at least all passenger cars, and as an option, all vehicles covered by law, is appropriate. Therefore, this requirement is adopted in the final guidelines. This determination is based upon the requirement of the Act, which specifies that, to be eligible for grant funds, a state must have a law that covers passenger vehicles. Further, the Act excludes vehicles constructed on truck chassis from the definition of passenger vehicles.

The proposed guidelines also specified that the following minimum coverage would be required by the safety belt and motorcycle helmet survey:

A. Demographics

The proposed guidelines stated that counties, or other primary sampling units, totaling at least 85 percent of the state's population must be eligible for inclusion in the sample. Only the smallest counties, based on population, with a total of 15 percent or less of the state's population may be eliminated from the sampling frame.

Twelve commenters specifically addressed the proposed 85 percent population coverage requirement. Three of these commenters concurred with the proposal. One recommended that 100 percent of the state population be required to be included in the sample frame. Three recommended that less than 85 percent coverage be required. Three recommended that some additional requirements be added to the 85 percent coverage requirement to ensure that rural and urban areas are proportionately represented. The rationale provided was that, while the 85 percent coverage would be appropriate in large rural states, the elimination of rural counties comprising

15 percent of the state population could effectively eliminate a great proportion of a smaller state's rural land area. Finally, one commenter recommended that vehicle registrations, rather than population, be used for determination of geographical areas to be eliminated from the sample frame.

NHTSA remains convinced that the most appropriate balance between burden to the state and accuracy in use rate estimation will be achieved by requiring 85 percent coverage of the state population. The agency is not aware of any analyses which would suggest that a state might substantially affect the accuracy or representativeness of their safety belt or helmet use estimates through elimination of geographical areas containing fifteen percent or less of the state population.

Finally, the agency believes that, for the purposes of determining which areas are to be eliminated, states should use population rather than other means such as vehicle registrations. NHTSA believes that this determination should be made in a consistent manner from state to state and that population figures are the most widely and consistently available information on which to base these determinations. Accordingly, this provision of the proposal is retained in the final guidelines.

B. Time of Day and Day of Week

The proposed guidelines specified that all daylight hours for all days of the week must be eligible for inclusion in the sample. In addition, the proposal stated that all randomly selected observation sites must be randomly assigned to these day of week/time of day time slots.

Eight commenters specifically addressed the proposed requirements regarding time of day and day of week. Two indicated general concurrence with the proposed requirements. Two others mentioned specific support for the proposed requirement for daytime only observations. One commenter expressed concern about possible differences in use between day and night and recommended that at least some observations be conducted at night. Finally, four commenters recommended that cluster sampling be allowed to group observation sites by day of week in order to reduce survey costs.

For the purposes of application for this grant program or for planning programmatic efforts, NHTSA believes that measurement of belt and helmet use during daytime hours is a sufficiently accurate indicator of overall use. Further, the agency believes that it is unlikely that nighttime measurements would be as reliable as would daytime measures. Therefore, the recommendation that nighttime sampling be required is not adopted in the final guidelines.

With regard to the comments concerning cluster sampling, the agency acknowledges the added practicality and efficiency of this approach and therefore has determined that grouping of observation locations by day and time will be allowable provided that the clustering procedure is detailed in the sample design. The final guidelines reflect this determination.

6. Documentation and Certification Procedure

The proposed guidelines specified at all sample design, collection and estimation procedures must be well documented and that this documentation be submitted to NHTSA for approval. The proposed requirement was that documentation include, but not be limited to:

A. Sample Design

- Define all sampling units, with their measures of size.
- Define what stratification was used, if any, at each stage of sampling and what methods were used for allocation of the sample units to the strata.
- Explain how the sample size at each stage was determined.
- List all sampled units and their probabilities of selection.
- Describe how observation sites were assigned to observation time periods.

B. Data Collection

- Define an observation period.
- Define an observation site and what procedures were implemented when the observation site was not accessible on the date assigned.
- Describe what vehicles were observed and what procedures were implemented when traffic was too heavy to observe all vehicles.
- Describe the data recording procedures.

C. Estimation

- Display the raw data and the weighted estimates.
- For each estimate, provide an estimate of one standard error and an approximate 95 percent confidence interval.
- Describe how estimates were calculated and how variances were calculated.

The proposed guidelines specified that this documentation be submitted to NHTSA for approval, either prior to the conduct of the survey or, if the survey had already been conducted, along with the grant application submission.

No comments were received relative to the proposed documentation requirement. These requirements are, therefore, adopted as proposed. However, seven commenters addressed the proposed certification procedure. Two of these concurred with the procedure as proposed. One recommended that states be required to obtain approval for their survey design prior to conducting their survey. Four offered additional comments concerning the expediency of the review process and a recommendation that NHTSA establish an interdisciplinary survey review team representing the agency, the State Highway Safety Office and a university-based survey expert.

Regarding the recommendation that the guidelines require approval of survey designs prior to the conduct of the survey, the agency believes that a pre-approval requirement would place an unnecessary burden on states which, at the time of this final notice, had already completed a complying survey during FY 92. A pre-approval requirement would force these states to incur the costs of repeating their survey. For this reason, the final guidelines continue to allow for either approval prior to conducting the survey or approval of the completed survey.

Regarding the comments concerning the time frame in which reviews and approvals are to be made, the agency acknowledges the demand that this grant application schedule places on the states and will make every effort to expedite processing of survey approvals. Therefore, NHTSA has determined that internal agency review of survey designs is most appropriate. The agency believes that an interdisciplinary review team, while desirable in terms of providing a broad base of expertise, would take longer to mobilize and would be less responsive than would an internal agency team. Further, the agency believes that an internal NHTSA review team can provide the necessary objectivity for unbiased survey review. Accordingly, the recommendation to utilize an interdisciplinary review team is not adopted in the final guidelines.

Following are the final guidelines, to be effective as of the date of this Federal Register Notice. These final guidelines are based on the guidelines proposed in the March 24, 1992, Federal Register Notice (57 FR 10210) with the changes discussed in the preceding text.

Guidelines for State Observational Surveys of Safety Belt and Motorcycle Helmet Use

1. Probability Based

The sample identified for the survey must have a probability-based design such that:

- Estimates are representative of safety belt and motorcycle helmet usage for the population of interest in that state, and
- Sampling errors can be calculated for each estimate produced.

2. Observational

The sample data must be collected through direct observation of safety belt usage and motorcycle helmet usage on roadways within the state. Safety belt use shall be determined by observation of the use or non-use of a shoulder belt or child restraint system.

- There must be a predetermined, clear policy of observers on what to do if observations cannot be made at an assigned site at the specified time (due to heavy rain, construction, safety problems, etc.).
- Observation instructions must specify which road and which direction of traffic on that road are to be observed (observers must not be free to choose between roads at an intersection).
- There must be clear instructions for observers on how to start and end an observation period and how to stop and start observations if traffic flow is too heavy to observe all vehicles or if vehicles begin moving too quickly for observation. (The goal is to remove any possible bias, such as starting with the next belted driver.)

3. Required Precision

The relative error (standard error divided by the estimate) for safety belt usage must not exceed 5 percent. As long as the motorcycle data are collected within the constraints of the belt sample design, the precision for these data will be acceptable. If a separate helmet use observation survey is conducted, the helmet use estimate must have a relative error of not more than five percent.

4. Population of Interest

Drivers and front seat outboard passengers must be eligible for observation in the safety belt survey. At a minimum, all passenger cars must be included in safety belt use observations. As an option, all vehicles covered under the state safety belt use law may be included in the safety belt survey. All motorcycle drivers and passengers must be eligible for the motorcycle helmet use portion of the survey. The following minimum coverage is required:

A. Demographics

Counties, or other primary sampling units, totaling at least 85 percent of the state's population must be eligible for inclusion in the sample. States may eliminate their least populated counties, or other primary sampling units, to a total of fifteen percent or less of the total state population, from the sampling frame.

B. Time of Day and Day of Week

All daylight hours for all days of the week must be eligible for inclusion in the sample. In addition, the randomly selected observation sites must be randomly assigned to these day of week/time of day time slots. If cluster sampling is used, assignment of sites and times within clusters must be done randomly.

5. Documentation

All sample design, collection and estimation procedures must be well documented. The documentation must include, but is not limited to:

A. Sample Design

- Define all sampling units, with their measures of size.
- Define what stratification was used at each stage of sampling and what methods were used for allocation of the sample units to the strata.
- Explain how the sample size at each stage was determined.
- List all samples units and their probabilities of selection.
- Describe how observation sites were assigned to observation time periods.

B. Data Collection

- Define an observation period.
- Define an observation site and what procedures were implemented when the observation site was not accessible on the date assigned.
- Describe what vehicles were observed and what procedures were implemented when traffic was too heavy to observe all vehicles.
- Describe the data recording procedures.

C. Estimation

- Display the raw data and the weighted estimates.
- For each estimate, provide an estimate of one standard error and an approximate 95 percent confidence interval.
- Describe how estimates were calculated and how variances were calculated.

Appendix

Following is a description of a sample design that meets the final survey guidelines and, based upon NHTSA's experience in developing and reviewing such designs, is presented as a reasonably accurate and practical design. Depending on the data available in a state, substitutions in this design can be made without loss of accuracy. This information is intended only as an example of a complying survey design and to provide guidance for states concerning recommended design options. These are not design requirements. It is recommended that state surveys of safety belt and motorcycle helmet use be designed by qualified survey statisticians.

I. Sample Design

- *Sample population:* It is recommended that all controlled intersections or all roadway segments in the state (or in the parts of the state which have not been excluded by the 85 percent demographic guideline) be eligible for sampling.
- *A multi-stage area probability sample is recommended as the most efficient sampling approach.*
- *First Stage:* Usually, countries are the best candidates for primary sampling units (PSUs). In large states with differing geographic areas, it is recommended that stratification of PSUs by geographic region be employed prior to PSU selection. Counties should be randomly selected, preferably with probabilities proportional to vehicle miles of travel in each county. If VMT is not available by county, PSUs can also be selected with probability proportional to county population. When sampling PSUs, states should ensure that an adequate mix of rural and urban areas are represented. In some cases, urban/rural stratification must be employed prior to PSU selection. In other cases, it may be more practical to perform rural/urban stratification at the second sampling stage.
- *Second Stage:* Within sampled PSUs, it is recommended that road segments should be stratified by road type. For example, a two strata design might be major roads vs. local roads, a three strata design might be high, medium and low traffic volume roads. The sample should be allocated to these strata by estimated annual VMT in each stratum. The sample of road segments within a stratum should be selected with probability proportional to average daily VMT.

When enumerating all local roads is impractical, additional stages of selection can be introduced and alternative sample probabilities can be used. For example, census tracts within counties can be selected with probability proportional to VMT, or, if VMT is not available, proportional to the square root of the population. Next, within each sampled census tract, road segments can be selected.

• *Sample Size:* The following tables are provided as rough guidelines for determining sample size for estimating belt usage with the required level of precision. The numbers are based on results from previous probability-based seat belt surveys.

DETERMINING FIRST STAGE SAMPLE SIZE

Number of counties in state	Number of counties in sample
10	7
20	11
30	13
40	15
50	16
60	17
70	18
80	19
90	19
100–120	20
130–170	21
More than 180	22

DETERMINING SECOND STAGE SAMPLE SIZE

Average number of road segments in each sampled county	Number of road segments sampled in each sample county
50	19
60	20
70	21
80	21
90	22
100	23
200	26
300	27
400	27
500–900	28
More than 1000	29

For example, to achieve the required level of precision, a state with 100 counties would sample 20 counties at the first stage. At the second stage, assuming an average of 100 road segments in each sampled county, a sample of 23 road segments per county would be selected. The total sample size would be 20 × 23 or 460 observational sites.

II. Data Collection

• Exact observation sites, such as the specific intersection on a road segment, should be determined prior to conducting the observations.

• Direction of traffic to be observed should be determined prior to conducting the observations.

• If traffic volume is too heavy to accurately record information, predetermined protocol should exist for selecting which travel lanes to observe.

• Observations should be conducted for a predetermined time period, usually one hour. Time periods should be the same at each site.

• To minimize travel time and distance required to conduct the observations, clustering of sampled sites can be done. Sample sites should be grouped into geographic clusters, with each cluster containing major and local roads. Assignment of sites and times within clusters should be random.

• Two counts should be recorded for all eligible vehicles:

1. Number of front seat outboard occupants.
2. Number of these occupants wearing shoulder belts.

• Two counts should be recorded for all eligible motorcycles:

1. Number of drivers and passengers.
2. Number of these wearing helmets.

III. Estimation

• Observations at each site should be weighted by the site's final probability of selection.

• An estimate of one standard error should be calculated for the estimate of belt use and motorcycle helmet use. Using this estimate, 95 percent confidence intervals for the estimate of safety belt use and helmet usage should be calculated.

Issued on June 25, 1992.

Michael B. Brownlee,

Associate Administrator, Traffic Safety Programs.

[FR Doc. 92–15304 Filed 6–26–92; 8:45 am]

BILLING CODE 4910–59–M

DEPARTMENT OF THE TREASURY

[Number: 100–11]

Delegation of Authority to Guarantee Loan Made to the Rhode Island Depositors Economic Protection Corporation

Date: June 22, 1992.

By virtue of the authority vested in the Secretary of the Treasury, including the authority in 31 U.S.C. 321(b), I hereby delegate to the Under Secretary for Finance, or in the absence of that official, to the person designated to act in that capacity, the authority of the Secretary of the Treasury under section 431 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (Public Law 102–242, 105 Stat. 2379) (the Act) to guarantee a loan made to the Rhode Island Depositors Economic Protection Corporation, and to exercise any right or power, make any finding or determination, or perform any duty or obligation which the Secretary of the Treasury is authorized to exercise, make or perform under the Act related to such guarantee. This authority may be redelegated to an appropriate subordinate official.

Nicholas F. Brady,

Secretary of the Treasury.

[FR Doc. 92–15141 Filed 6–26–92; 8:45 am]

BILLING CODE 4810–25–M

Sunshine Act Meetings

Federal Register
Vol. 57, No. 125
Monday, June 29, 1992

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 11:35 a.m. on Tuesday, June 23, 1992, the Board of Directors of the Federal Deposit Insurance Corporation met in open session to consider the following matters:

Memorandum and resolution re: Proposed regulation regarding Prompt Corrective Action (Section 131 of the Federal Deposit Insurance Corporation Improvement Act of 1991).

Memorandum and resolution re: Proposed regulations regarding real estate lending standards.

In calling the meeting, the Board determined, on motion of Director C.C. Hope, Jr. (Appointive), seconded by Director T. Timothy Ryan, Jr. (Office of Thrift Supervison), concurred in by Vice Chairman Andrew C. Hove, Jr., Director Stephen R. Steinbrink (Acting Comptroller of the Currency), and Chairman William Taylor, that Corporation business required its consideration of the matters on less than seven days' notice to the public; and that no notice of the meeting earlier than June 18, 1992, was practicable.

The meeting was held in the Board Room of the FDIC Building located at 550—17th Street, NW., Washington, DC.

Dated: June 24, 1992.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 92-15271 Filed 6-25-92; 9:03 am]

BILLING CODE 6714-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 1:35 p.m. on Tuesday, June 23, 1992, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider the following matters:

Applications of Puget Sound Savings Bank, Seattle, Washington, for consent to merge, under its charter and title, with Olympic Savings Bank, Seattle, Washington, for consent to establish seven branch offices of Olympic Savings Bank as branches of the resultant bank, and for consent to participate in an optional conversion transaction.

Application of The State Bank of Whiting, Whiting, Kansas, for consent to purchase the assets of and assume the liability to pay deposits made in The Peoples Exchange Bank of Elmdale, Kansas, Elmdale, Kansas, and for consent to establish the sole office of The Peoples Exchange Bank of Elmdale, Kansas as a branch of the resultant bank.

Matters relating to the probable failure of certain insured banks.

Administrative enforcement proceedings.

Matters relating to certain financial institutions.

In calling the meeting, the Board determined, on motion of Director C.C. Hope, Jr. (Appointive), seconded by Director T. Timothy Ryan, Jr. (Office of Thrift Supervision), concurred in by Director Stephen R. Steinbrink (Acting Comptroller of the Currency), Vice Chairman Andrew C. Hove, Jr., and Chairman William Taylor, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting was held in the Board Room of the FDIC Building located at 550—17th Street, NW., Washington, DC.

Dated: June 24, 1992.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 92-15272 Filed 6-25-92; 9:03 am]

BILLING CODE 6714-01-M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: 10:00 a.m., Thursday, July 2, 1992.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Summary Agenda:

Because of their routine nature, no substantive discussion of the following items is anticipated. These matters will be voted on without discussion unless a member of the Board requests that an item be moved to the discussion agenda.

1. Proposed revision of the Federal Reserve Board's smoking policy.
2. Proposed public transportation subsidy for employees of the Federal Reserve Board.

Discussion Agenda:

3. Proposed 1993 Federal Reserve Bank Budget Objective.
4. Any items carried forward from a previously announced meeting.

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452-3684 or by writing to: Freedom of Information Office Board of Governors of the Federal Reserve System Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Dated: June 25, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-15344 Filed 6-25-92; 1:36 pm]

BILLING CODE 6210-01-M

BOARD OF GOVERNORS FEDERAL RESERVE SYSTEM

TIME AND DATE: Approximately 11:00 a.m., Thursday, July 2, 1992, following a recess at the conclusion of the open meeting.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Benefits proposals regarding the Office of Inspector General.
2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
3. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning

at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: June 25, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-15345 Filed 6-25-92; 1:36 pm]

BILLING CODE 6210-01-M

Corrections

Federal Register
Vol. 57, No. 125
Monday, June 29, 1992

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Action Affecting Export Privileges; Decision and Order

Correction

In notice document 92-4325 beginning on page 6583 in the issue of Wednesday, February., 26, 1992, on page 6583, in the second column, in the first paragraph, "February 22, 1992" should read "February 22, 1991".

BILLING CODE 1505-01-D

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 646

[Docket No. 911063-2008]

RIN 0648-AD57

Snapper-Grouper Fishery of the South Atlantic

Correction

In rule document 92-5145 beginning on page 7886 in the issue of Thursday, March 5, 1992, make the following correction:

§ 646.7 [Corrected]

On page 7891, in the first column, in § 646.7(kk), in the first line, "the" should be deleted and in the second line, after "to" insert "a".

BILLING CODE 1505-01-D

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 663

[Docket No. 910792-2030]

RIN 0648-AE10

Pacific Coast Groundfish Fishery

Correction

In rule document 92-8186 beginning on page 12212 in the issue of Thursday, April 9, 1992, make the following correction:

§ 663.22 [Corrected]

1. On page 12213, in the third column, in § 663.22(b)(2), in the fourth line from the top of the page, "16 to 20" should read "16 of 20".

BILLING CODE 1505-01-D

DEPARTMENT OF DEFENSE

Department of the Army

35 CFR Part 251

Regulations of the Secretary of the Army (Panama Canal Employment System); Employment and Personnel Policy

Correction

In rule document 91-19070 beginning on page 40554 in the issue of Thursday, August 15, 1991, make the following correction:

1. On page 40556, in the second column, in amendatory instruction 5 to § 251.32, in the second line, "paragraph (6)" should read "paragraph (b)".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT-070-02-4212-13; M80295]

Realty Action: Exchange of Public and Private Lands in Beaverhead County, MT

Correction

In notice document 92-9492 appearing on page 14845 in the issue of Thursday, April 23, 1992, make the following corrections:

On page 14845, in the 2d column, in the 14th line, "T 9 S, 4 11 W" should read "T 9 S, R 11 W" and in the 19th line, in Sec. 15, remove the comma after "SE¼".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID-060-02-3130-10;IDI-28747]

Cascade Resource Management Plan, ID; Amendment

Correction

In notice document 92-9305 beginning on page 14735 in the issue of Wednesday, April 22, 1992, make the following correction:

On page 14735, in the third column, in the land description, under T. 10 N., R. 3 E., in Sec. 34, "NE¼" should read "NW¼".

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[FI-46-89]

RIN 1545-AN71

Treatment of Acquisition of Certain Financial Institutions; Certain Tax Consequences of Federal Financial Assistance to Financial Institutions

Correction

In proposed rule document 92-8637 beginning on page 14804 in the issue of Thursday, April 23, 1992, make the following corrections:

1. On page 14805, in the 3d column, in the 11th line,"control" should read "Control".

2. On the same page, in the same column, in the 2d full paragraph, in the 12th line "Institution's" was misspelled.

3. On page 14806, in the second column, in the third line, "or" should read "of".

4. On the same page, in the same column, in the 5th full paragraph, in the 15th line, after "objective" insert "would".

5. On the same page, in the third column, in the first full paragraph, in the seventh line, "FAA" should read "FFA".

6. On the same page, in the same column, in the second full paragraph, in the sixth line, "of" should read "or".

7. On the same page, in the same column, in the fourth full paragraph, in the last line, "FAA" should read "FFA".

8. On page 14807, in the 2d column, in the 3d full paragraph, in the 10th line, "acquisition" should read "acquisitions".

9. On page 14808, in the 1st column, in the 16th line, "1.502-6" should read "1.1502-6".

10. On the same page, in the 2d column, in the 13th line, "regulation" was misspelled.

11. On the same page, in the same column, in the second full paragraph, in the 5th line "would" should read "wound".

12. On the same page, in the same column, in the same paragraph, in the sixth line, insert a period after "liquidation * * *".

13. On the same page, in the same column, in the third full paragraph, in the fifth line from the botton of the page, "Sec." should read "See".

§ 1.597-1 [Corrected]

14. On page 14809, § 1.597-1 is corrected as follows:

a. In the second column, in the definition *Agency Control*, in the fifth line, "Institution's" was misspelled.

b. In the same column, in the definition *Bridge Bank*, in paragraph (1), in the eighth line, "1441a(b)(11" should read "1441a(b)(11)".

c. In the 3d column, in the definition *Federal Financial Assistance*, in the 13th line, remove the section symbol; in the 18th line, after "stock" insert a comma; in the 20th line, "provision" was misspelled; in the 26th line, "payments" was misspelled; and in the 27th line "any" should read "an".

d. In the same column, in the definition *Net Worth Assistance*, in the fourth line, after "has" insert "a".

§ 1.597-2 [Corrected]

15. Section 1.597-2 is corrected as follows:

a. On page 14810, in the first column, the section heading should read "Taxation of Federal Financial Assistance".

b. On the same page, in the same column, in paragraph (a)(2)(ii), in the third and sixth lines, "FAA" should read "FFA"

c. On the same page, in the second column, in paragraph (c)(3)((ii)(A), in the second line, "deductions" was misspelled.

d. On the same page, in the same column, in paragraph (c)(4)(i), in the second line, "Institution" was misspelled.

e. On the same page, in the 3d column, in paragraph (c)(4)(iii), in the 3d line, "Continuing" was misspelled and in the 20th line, "account" should read "amount".

f. On page 14811, in the first column, in paragraph (c)(6)(i), in the fourth line, "the" should read "an".

g. On the same page, in the second column, in paragraph (e), Example 1, in paragraph (i), in the sixth line, after "1993" insert a comma and in paragraph (ii), in the last line "FAA" should read "FFA".

§ 1.597-4 [Corrected]

16. Section 1.597-4 is corrected as follows:

a. On page 14812, in the first column, the section heading should read "Bridge Banks and Agency Control".

b. On the same page, in the second column, in paragraph (d)(1), in the fifth line "the" should read "to".

c. On the same page, in the same column, in paragraph (d)(2), in the 10th line, the second "to" should read "the".

d. On the same page, in the same column, the paragraph designated "(3)" should read "(e)".

e. On the same page, in the third column, in paragraph (f)(2), in the seventh line, "Control" was misspelled.

f. On page 14813, in the 3d column, in paragraph (g)(7)(i), in the 16th line, "retaining" should read "retains".

g. On the same page, in the same column, in paragraph (g)(7)(ii), in the ninth line, "too" should read "to".

h. On page 14814, in the first column, in paragraph (h), Example 2, paragraph (ii), in the fourth line, "million" should read "4 million".

§ 1.597-5 [Corrected]

17. Section 1.597-5 is corrected as follows:

a. On page 14814, in the second column, in paragraph (a), in the first line, "*Overview--transfer*" should read "*Overview--*(1) *In general.*".

b. On the same page, in the same column, in paragraph (b), in the fifth line, after "Institution" insert "(the" and in the sixth line, after "Entity")" insert "is treated".

c. On the same page, in the third column, in the undesignated paragraph following paragraph (b)(1)(iii), in the seventh line, "FAA" should read "FFA".

d. On the same page, in the same column, in paragraph (b)(2), in the first line, "or" should read "of"; in the third line, after "section" insert a comma; and in the seventh line, after "Subsidiaries" insert "are".

e. On the same page, in the same column, in paragraph (b)(3), in the third line, "New" was misspelled.

f. On the same page, in the same column, in paragraph (c)(1), in the first and tenth lines, "FAA" should read "FFA".

g. On page 14815, in the first column, in paragraph (d)(1), in the sixth line, "1T(c)(1)" should read "1T(c)(1)".

h. On the same page, in the second column, in paragraph (d)(2)(iv)(A), in the seventh line, after "date" remove "of".

i. On the same page, in the third column, in paragraph (d)(2)(iv)(B), in the fourth line, the second "by" should read "but".

j. On the same page, in the same column, in paragraph (e)(3), in the 12th line, "Subsidiary" was misspelled.

k. On page 14816, in the first column, in paragraph (e)(5), in the third line, "Transfer" was misspelled.

l. On the same page, in the same column, in Example 1, paragraph (ii), in the fifth and ninth lines "New" should read "Net".

m. On the same page, in the 2d column, in Example 2, in paragraph (i), in the 3d line, "caused" was misspelled; in paragraph (ii), in the 6th line, "The" was misspelled and in the last line "loans" was misspelled; and in paragraph (iii), in the 14th line, "The" was misspelled.

n. On the same page, in the third column, in Example 3, in paragraph (i), in the fourth line "Consolidated" was misspelled and in paragraph (iv), in the ninth line, "Transfer" was misspelled.

§ 1.597-6 [Corrected]

18. On page 14817, in the 1st column, in § 1.597-6(a), in the 14th line "Commissioner" as misspelled.

§ 1.597-7 [Corrected]

19. On page 14817, in the second column, in § 1.597-7(b)(2)(i), in the second line, the date should read "April 22, 1992".

20. On page 14818, in the first column, in § 1.597-7(c)(3), in the tenth line from the end of the paragraph, "§ 1.597-]" should read "§ 1.597-1".

BILLING CODE 1505-01-D

federal register

Monday
June 29, 1992

Part II

Department of Housing and Urban Development

Office of Assistant Secretary

NOFA for Lead-Based Paint (LBP) Risk Assessments; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Public and Indian Housing

[Docket No. N-92-3449; FR-3283-N-01]

NOFA for Lead-Based Paint (LBP) Risk Assessments

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice of funding availability for FY 1992.

SUMMARY: This NOFA informs Public Housing Agencies and Indian Housing Authorities (referred to jointly as "HAs") that have pre-1980 family developments in their inventories of the availability of $23,853,455 in funding for lead-based paint (LBP) risk assessments. The NOFA contains information on the following:

(a) The purpose of the NOFA; available amounts and eligibility; and the risk assessment protocol to be used by HAs in conducting a LBP risk assessment and developing recommendations regarding in-place management;

(b) Application processing, including how to apply and how selections will be made; and

(c) A schedule of steps involved in the application process.

DATES: An application may be submitted immediately after publication of this NOFA, and must be submitted by 3 p.m. local time (i.e., the time in the HUD Field Office where the application is submitted) on July 30, 1992 (see Appendix 1 for the Hours of Operation of HUD Regional and Field Offices). Applications will be funded on a first-come, first-served basis. In cases where additional time is allowed under this NOFA to correct technical deficiencies in an application, the initial date and time of receipt will determine first-come, first-served eligibility. Every effort should be made to submit applications as soon as possible after the publication of this NOFA; furthermore, the above-stated deadline is firm as to date and hour. In the interest of fairness to all applicants, the Department will treat as ineligible for consideration any application that is received after the deadline. Applicants should take this practice into account and make early submission of their applications to avoid any risk of loss of eligibility brought about by unanticipated delays or other delivery-related problems.

ADDRESSES: Application forms may be requested from HUD Field Offices listed in Appendix 1 of this NOFA. Completed applications are to be submitted to the Field Office that has jurisdiction over the HA submitting the request for funding.

FOR FURTHER INFORMATION CONTACT: Janice D. Rattley, Director, Office of Construction, Rehabilitation and Maintenance, Department of Housing and Urban Development, 451 Seventh Street, SW., room 4138, Washington, DC 20410, telephone (202) 708-1800. Indian Housing Authorities may contact: Dom Nessi, Director, Office of Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., room 4140, Washington, DC 20410, telephone (202) 708-1015, or (202) 708-0850 (voice/TDD). (These are not toll-free telephone numbers.)

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act Statement

The information collection requirements contained in this NOFA have been approved by the Office of Management and Budget (OMB), under section 3504(h) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501-3520), and assigned OMB control numbers 0348-0043, 2577-0044, and 0348-0046.

I. Purpose and Substantive Description

A. Allocation Amounts

(1) *Total amount available.* The Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1992 (Pub. L. 102-139, approved October 28, 1991; at 105 Stat. 744) (Appropriations Act) set aside $25,000,000, of the $2,800,975,000 of budget authority available for modernization of existing public housing projects, for the risk assessment of lead-based paint (LBP). However, amounts actually available from the appropriated amount have been reduced because conversions from Section 8 (U.S. Housing Act of 1937)-funded section 202 (Housing Act of 1959) direct loan projects to rental assistance-funded section 202 grant projects have not occurred at the rate anticipated by Congress in the Appropriations Act. Reductions were made in the FY 1991 carryover balances to fund FY 1992 programs, as provided in the Appropriations Act. Therefore, the amount of funds available for LBP risk assessment in FY 1992 is $23,853,455. In this NOFA the Department is establishing a maximum of $250,000 for an initial award to any single HA, but also establishes a mechanism for possible additional funding (see Section I.D.(3) of this NOFA).

(2) *Per-unit cost.* The Department has determined that the maximum amount that can be awarded to a HA under this NOFA will be based on the amount requested in the HA's application and the availability of funding. An HA shall base its funding request on a per-unit-to-be-tested (or sampled)-per-development cost. The Department has estimated a cost of $495 per-tested (or sampled)-unit as a guide that may be used for developing HA funding requests. This per-unit cost guide includes costs for collection of dust and soil samples, laboratory analysis of collected dust and soil samples, interpretation of laboratory results on samples collected, review of maintenance and management practices, and recommendations for in-place management (including interim containment recommendations). Where the estimated cost-per-unit-to-be-tested (or sampled) exceeds the guidance amount of $495, HUD may examine the cost reasonableness of the request.

The method to be used to determine the number of units to be tested (or sampled) is set forth below and in the risk assessment protocol attached to this NOFA and included in the application kit:

Number of units in development	Number of units for inspecting and testing (collecting samples)
1-4	ALL
5-74	5
75-124	6
125-174	7
175-224	10
225-299	12
300-399	15
400-499	18
500+	20 per 500 units, plus 1 for each additional increment of 50 units

As stated in Section III.A, Application Content, of this NOFA, an application must specify the number of units to be tested (or sampled), the amount requested for each development, and the total amount the HA is requesting.

(3) *Assignment of funds to Regional Offices.* Funds will be assigned to the HUD Regional Offices based on the estimated testing (or sample) size of pre-1980 family units within each Region. The Department has determined that there are approximately 109,000 units to be tested (or sampled) using the protocol. The following chart reflects the estimated percentage of these units within each Region; these percentages will be used to assign available funds to the Regions:

Region	Estimated sample size: pre-1980 family units	% of national sample of pre-1980 units
I	3,677	3
II	16,603	15
III	18,307	17
IV	19,213	18
V	20,247	19
VI	12,774	12
VII	1,857	2
VIII	4,077	4
IX	8,075	7
X	3,712	3
Totals	108,542	100

As many eligible applications as possible will be funded within the Regional allocation of funds. A Region may conduct more than one round of funding, as provided in Section I.D(3) of this NOFA, with its original allocation of the total funds. If after fully funding all eligible applications within its jurisdiction, a Regional Office has funds remaining from its original allocation, the Regional Office will notify Headquarters of the amounts remaining. Headquarters will redistribute funds from Regions that do not have enough fundable applications, to other Regions that have insufficient funds for fundable applications. Funds will be redistributed according to the proportions for the original distribution (see above distribution chart), excluding those Regions that do not need additional funds. This process will be repeated until all fundable applications have been fully funded, within the total amount available.

(4) *Subassignment of funds to non-Indian and Indian Field Offices.* Regional Offices shall subassign funds to each non-Indian and Indian Field Office based on funding decisions made pursuant to this NOFA.

(5) *Remaining funds.* In the event that the funds awarded under this NOFA total less than the amount available, the remaining amount will be carried over to FY 1993, because the Appropriations Act targets these funds for the assessment of risks associated with lead-based paint. If funds are carried over to FY 1993, a subsequent NOFA for these remaining set-aside funds will be published.

B. Eligibility and Requirements

(1) All HAs with pre-1980 family developments are eligible (i.e., both large HAs funded under the Comprehensive Grant Program (CGP) and small HAs funded under the Comprehensive Improvement Assistance Program (CIAP)). HAs, especially smaller ones, are encouraged to form a consortium for purposes of having risk assessments conducted. Such a consortium would enable a number of HAs to obtain coordinated services for those risk assessments.

(2) In accordance with section 14(a)(3) of the U.S. Housing Act of 1937 (1937 Act) (added by the Appropriations Act, 105 Stat. 759), all pre-1980 family developments within a HA's inventory may be the subject of a LBP risk assessment, whether or not the units have been previously tested or abated. As stated in section 14(a)(3), risk assessments are intended to assess the risks of lead-based paint poisoning in all projects constructed before 1980 that are, or will be, occupied by families. Risk assessments are not mandatory; however, HAs are strongly encouraged to conduct them. In undertaking a risk assessment, a HA shall use a risk assessment protocol that, at a minimum, follows the protocol attached to this NOFA. While the scope of the risk assessment may exceed the contents of the protocol provided, funding shall be requested based on the protocol attached to this NOFA. The goal of the protocol is to enable a HA to identify lead hazards so that appropriate interim measures can be implemented until testing and abatement can be fully undertaken.

Section 14(a)(3) of the 1937 Act requires that professional risk assessments include dust and soil sampling and laboratory analysis. The risk assessment protocol attached to this NOFA has been developed by the Department to ensure compliance with this provision and with certain requirements of the Lead-Based Paint Poisoning Prevention Act. In no instance shall conducting a risk assessment satisfy the HA's obligation under the Lead-Based Paint Poisoning Prevention Act to test for and abate lead-based paint hazards.

Upon completion of the risk assessment, the HA must provide a copy of the results of the risk assessment to the appropriate Field Office. The risk assessment must be completed within eighteen (18) months of the fund reservation notification to the HA.

(3) CIAP implementation requirements, as set forth in 24 CFR part 968, subpart B, and the CIAP Handbook, 7485.1 REV–4, are applicable to HAs funded under this NOFA. These requirements encompass fund requisitions, implementation schedules, quarterly progress reports, budget revisions, etc.

(4) In accepting funding to perform a risk assessment, HAs must agree to participate, if requested by HUD, in a subsequent evaluation of the risk assessment protocol attached to this NOFA as Appendix 2. This evaluation will entail a review of collected sampling data and the effectiveness of recommended in-place management procedures.

c. Ineligible Costs and Activities

(1) Risk assessment costs from prior years will not be eligible for funding or reimbursement under this NOFA. The Appropriations Act amended section 14(a) of the 1937 Act (see 105 Stat. 759) by adding clause (5), which states that risk assessment costs incurred or disbursed in FY 1991 from other accounts will be paid or reimbursed from modernization funds in FY 1992. Therefore, while not eligible costs under this NOFA, HAs may seek reimbursement of these FY 1991 costs through CIAP or CGP funds. (Risk assessments are an eligible item for funding under CIAP and CGP. An HA that needs additional funds for activities funded under this NOFA may reprogram CIAP funds or use its CGP allocation.)

(2) Actual implementation of recommendations that result from the risk assessment conducted is not eligible for funding under this NOFA. The implementation of resulting recommendations (*e.g.*, comprehensive or random testing, abatement of lead, in-place management measures (including interim containment), and work order modifications) may be funded from

other HA sources (i.e., CIAP, CGP, operating subsidy, or operating reserves).

D. Selection of Applications for Funding

(1) In order to be considered for funding, an application must be complete and must meet the threshold criterion that the proposed risk assessment be for pre-1980 family developments. Eligible applications will be fully funded, up to a maximum of $250,000 in the first round of funding, on a first-come, first-served basis, as long as funds remain available. To the extent that funds remain available after the first round, HAs requesting additional funding above the $250,000 limit may be considered for additional funds in a second or subsequent round (up to $100,000 in each additional round), as explained below in Section I.D(3) of this NOFA. All awards in a second or subsequent round will also be made on a first-come, first-served basis.

(2) Field Offices will ensure that all applications (including copies) are date- and time-stamped immediately upon receipt, and will forward a stamped copy of each application, in chronological order, to the appropriate Regional Office Director of Public Housing as soon as the application is considered eligible for funding. The Field Office will be responsible for identifying, notifying applicants of, and receiving corrections of any technical deficiencies in the application, as discussed in Part IV of this NOFA.

(3) Each Regional Office will sort applications received from the Field Offices in its jurisdiction in chronological order according to the date and time stamp placed on the application by the Field Office (and taking into consideration any time differences). (For those Indian Offices that are collocated within a Regional Office, the Regional Administrator will designate which program office (Public or Indian) will review and sort applications from the Field Office.) From the amounts assigned to each Region, the Regional Administrator shall make final funding decisions for each round of funding on a first-come, first-served basis. As many applications as possible will be funded within the Regional allocation or any redistribution of funds. Funding will take place in rounds until either all funds have been awarded or there are no more fundable applications.

In the first round of funding, each HA will be limited to a maximum award of $250,000 (one percent of the $25 million that was appropriated for risk assessments), although the HA is permitted to request a higher level of funding. Setting a maximum amount that can be funded in the first round will ensure an optimum number of HAs that can be accommodated within the available funding. A HA that has applied for more than the $250,000 limit (e.g., a HA with a large multifamily or scattered site unit inventory that requires more than the maximum of $250,000 to conduct the risk assessment) may receive additional funds in excess of the $250,000 maximum in any second or subsequent round of funding, if funds remain after all eligible applications have been identified and funded in previous rounds or additional funds become available because of a redistribution of funds to the Region in accordance with Section I.A(3) of this NOFA.

In a second or subsequent round, each eligible HA may be awarded up to an additional $100,000 per round, until all of the funds are awarded or all eligible applications are funded. Awards in a second or subsequent round will also be made on a first-come, first-served basis, using the original application (date and time stamped).

Each Region will advise Headquarters, by the date specified in the Processing Schedule in Section III.B of this NOFA, as to whether there are sufficient eligible applications within its jurisdiction to require all of the funds assigned to that Region. In cases where all assigned funds cannot be used within a Regional Office's jurisdiction, Headquarters will reassign the funds to other Regions that have identified a need for additional funds, as described in Section I.A(3) of this NOFA.

E. Notification of Awards

Once all rounds of funding are complete, each Regional Office will notify its Field Offices of the amounts awarded to each funded HA within a Field Office's jurisdiction. The Field Office will notify the HA of HUD's funding decision after congressional notification is completed. Reservation documents will be prepared by the Field Office.

II. Application Process

A. General Requirements

Applications are available from HUD Field Offices listed in Appendix 1 of this NOFA. To be considered for funding, an original and 2 copies of the application must be submitted to the HUD Field Office that has jurisdiction over the applicant HA. An application may be submitted immediately upon publication of this NOFA, and must be submitted before 3 p.m., local time, on July 30, 1992, to the HUD Field Office that has jurisdiction over the applicant HA. The contents of the application are listed below, in Section III.A of this NOFA.

The above-stated deadline is firm as to date and hour. In the interest of fairness to all applicants, the Department will treat as ineligible for consideration any application that is received after the deadline. Applicants should take this practice into account and make early submission of their materials to avoid any risk of loss of eligibility brought about by unanticipated delays or other delivery-related problems.

B. Threshold Requirement

An HA must propose to conduct risk assessments for pre-1980 family developments to be considered eligible for funding.

III. Checklist of Application Submission Requirements

A. Application Content

The following documents comprise the application:

(1) OMB Standard Form 424, Application for Federal Assistance. HAs shall complete items 2, 5, 12, 13, 14, 15, 17 and 18;

(2) Form HUD–52825, Comprehensive Assessment/Program Budget, Part I—Summary. The total amount requested for funding will be identified on this form under either account 1410.1, Administration (where HA staff will be used and the HA certifies that it has the capability of and will be conducting the professional risk assessment), or account 1430.2, Consultant Fees (where the HA will be contracting for the professional risk assessment).

(3) Form HUD–52825, Comprehensive Assessment/Program Budget, Part II—Supporting Pages. Developments proposed to be the subject of a risk assessment are to be identified on this form. The applicant must provide the name; address; project number; total number of units; number of units to be tested (or sampled), in accordance with the requirements set forth in Section I.A(2) of this NOFA and in the attached protocol; and amount requested for each development (see Section I.A(2) of this NOFA for information on unit-cost guidance).

(4) Certification signed by the HA Executive Director that, at a minimum, the risk assessment protocol to be used will be equivalent to the protocol provided in this NOFA.

(5) Certification signed by the HA Executive Director that the proposed risk assessment will be completed within eighteen (18) months of the date that funds are awarded and that the HA

agrees to participate, if requested by HUD, in a subsequent evaluation of the risk assessment protocol, to assess its validity for the identification of lead paint hazards and effectiveness in addressing those hazards.

(6) Certification signed by the HA Executive Director that a copy of the completed risk assessment will be provided to the appropriate HUD Field Office upon completion of the assessment.

(7) Certification that HA staff is qualified to conduct LBP risk assessments, if applicable.

(8) Form HUD–50070, Certification for Drug-Free Workplace.

(9) Certification for Contracts, Grants, Loans and Cooperative Agreements, required of HAs established under State law that are applying for grants exceeding $100,000.

(10) SF–LLL, Disclosure of Lobbying Activities, required of HAs established under State law only where any funds, other than federally appropriated funds, will be or have been used to influence Federal workers or Members of Congress or their staffs regarding specific grants or contracts.

(11) Form HUD–2880, Applicant/Recipient Disclosure/Update Report.

B. Processing Schedule

The following schedule will be followed, and is designed to complete the funding process during FY 1992. This schedule assumes that the NOFA will be published by the end of June 1992, allowing at least 30 days for applications to be submitted.

(1) HAs send applications to Field Office—from date of publication of NOFA to 7/30/92.

(2) Field Offices review applications for completeness and advise HAs of any technical deficiencies—by 8/06/92.

(3) Technical deficiencies due—at least by 8/20/92.

(4) Field Offices complete reviews and forward applications, in chronological order to Regional Office—by 8/25/92.

(5) Regional Offices make funding decisions based on available funds and advise Headquarters of unused funds or need for additional funds—by 9/01/92.

(6) Headquarters redistributes unused funds—by 9/15/92.

(7) Regional Offices reserve funds and forward congressional notifications to Headquarters—by 9/22/92.

(8) Congressional notification is completed and HAs are advised of funding decisions—by 9/30/92.

IV. Corrections to Deficient Applications

Immediately after the submission of an application, the appropriate Field Office will screen the application to determine whether all items were submitted. If items 1, 2, and 3 listed in Part III.A, Application Content, of this NOFA are missing, the application will be considered substantially incomplete and, therefore, ineligible for processing.

If the HA fails to submit any of items 4–10 listed in Part III.A of this NOFA, or the application contains a technical mistake such as an incorrect signatory, the Field Office will immediately notify the HA that it has 14 calendar days from the date of HUD's written notification to submit or correct the specified items. If any of items 4–10 are missing and the HA does not submit them within the 14–day cure period, the application will be ineligible for further processing.

HUD notes that the initial date and time of receipt will be used to determine funding under the first-come, first-served criterion; the determination of technical deficiencies will not impact upon the initial date and time of receipt.

V. Other Matters

A. Environmental Review

A finding of no significant impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The finding of no significant impact is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, Office of the General Counsel, room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–0500.

B. Federalism Executive Order

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that the policies contained in this notice will not have substantial direct effects on States or their political subdivisions, or the relationship between the federal government and the States, or on the distribution of power and responsibilities among the various levels of government. As a result, the notice is not subject to review under the Order. The NOFA merely sets forth funding availability for HAs to conduct, at their discretion, risk assessments for lead paint hazards.

C. Family Executive Order

The General Counsel, as the Designated Official under Executive Order 12606, *The Family*, has determined that this notice will likely have a beneficial impact on family formation, maintenance, and general well-being. Families could benefit from this funding action as a result of the identification of immediate and potential lead-based paint hazards; that identification will ultimately lead to a safer environment. Accordingly, since the impact on the family is beneficial, no further review is considered necessary.

D. Section 102 of the HUD Reform Act; Documentation and Public Access Requirements; Applicant/Recipient Disclosures

Disclosures. HUD will make available to the public for five years all applicant disclosure reports (HUD Form 2880) submitted in connection with this NOFA. Update reports (also Form 2880) will be made available along with the applicant disclosure reports, but in no case for a period generally less than three years. All reports—both applicant disclosures and updates—will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. (See 24 CFR part 12, subpart C, and the notice published in the **Federal Register** on January 16, 1992 (57 FR 1942), for further information on these disclosure requirements.)

Public notice. HUD will include recipients that receive assistance pursuant to this NOFA in its quarterly **Federal Register** notice of recipients of all HUD assistance awarded on a competitive basis. (See 24 CFR 12.16(b), and the notice published in the **Federal Register** on January 16, 1992 (57 FR 1942), for further information on these requirements.)

E. Section 103 of the HUD Reform Act

HUD's regulation implementing section 103 of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3537a) (HUD Reform Act) was published on May 13, 1991 (56 FR 22088) and became effective on June 12, 1991. That regulation, codified as 24 CFR part 4, applies to the funding competition announced today. The requirements of the rule continue to apply until the announcement of the selection of successful applicants.

HUD employees involved in the review of applications and in the making of funding decisions are restrained by part 4 from providing advance information to any person (other than an authorized employee of HUD) concerning funding decisions, or from otherwise giving any applicant an unfair competitive advantage. Persons who apply for assistance in this competition should confine their inquiries to the

subject areas permitted under 24 CFR part 4.

Applicants who have questions should contact the HUD Office of Ethics (202) 708–3815 (voice/TDD). (This is not a toll-free number.) The Office of Ethics can provide information of a general nature to HUD employees, as well. However, a HUD employee who has specific program questions, such as whether particular subject matter can be discussed with persons outside the Department, should contact his or her Regional or Field Office Counsel, or Headquarters counsel for the program to which the question pertains.

F. Section 112 of the Reform Act

Section 13 of the Department of Housing and Urban Development Act (42 U.S.C. 3537b), added by section 112 of the Reform Act, contains two provisions dealing with efforts to influence HUD's decisions with respect to financial assistance. The first imposes disclosure requirements on those who are typically involved in these efforts—those who pay others to influence the award of assistance or the taking of a management action by the Department and those who are paid to provide the influence. The second restricts the payment of fees to those who are paid to influence the award of HUD assistance, if the fees are tied to the number of housing units received or are based on the amount of assistance received, or if they are contingent upon the receipt of assistance.

Section 13 was implemented by final rule published in the **Federal Register** on May 17, 1991 (56 FR 22912). If readers are involved in any efforts to influence the Department in these ways, they are urged to read the final rule, particularly the examples contained in Appendix A of the rule.

Any questions about the rule should be directed to the Office of Ethics, room 2158, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–3000. Telephone: (202) 708–3815 (voice/TDD). (This is not a toll-free number.) Forms necessary for compliance with the rule may be obtained from the local HUD office.

G. Prohibition Against Lobbying Activities

The use of funds awarded under this NOFA is subject to the disclosure requirements and prohibitions of section 319 of the Department of Interior and Related Agencies Appropriations Act for Fiscal Year 1990 (31 U.S.C. 1352) (the "Byrd Amendment") and the implementing regulations at 24 CFR part 87. These authorities prohibit recipients of federal contracts, grants, or loans from using appropriated funds for lobbying the Executive or Legislative branches of the Federal government in connection with a specific contract, grant, or loan. The prohibition also covers the awarding of contracts, grants, cooperative agreements, or loans unless the recipient has made an acceptable certification regarding lobbying. Under 24 CFR part 87, applicants, recipients, and subrecipients of assistance exceeding $100,000 must certify that no federal funds have been or will be spent on lobbying activities in connection with the assistance. The Department has determined that an IHA established by an Indian Tribe as a result of the exercise of its sovereign power is not subject to the Byrd Amendment, but an IHA established under State law is subject to those requirements and prohibitions.

Authority: 42 U.S.C. 14371; Pub. L. 102–139.

Dated: June 22, 1992.

Arthur S. Newburg,

Director, Office of Lead-Based Paint Abatement and Poisoning Prevention.

Joseph P. Schiff,

Assistant Secretary for Public and Indian Housing.

APPENDIX 1.—HOURS OF OPERATION FOR HUD REGIONAL AND FIELD OFFICES

Name of office	Hours of operation
Region I	
Boston:	
Regional Office	8:30 a.m. to 5:00 p.m.
Hartford Office	8:00 a.m. to 4:30 p.m.
Manchester Office	8:00 a.m. to 4:30 p.m.
Providence Office	8:00 a.m. to 4:30 p.m.
Region II	
New York:	
Regional Office	8:30 a.m. to 5:00 p.m.
Albany Office	7:30 a.m. to 4:00 p.m.
Buffalo Office	8:00 a.m. to 4:30 p.m.
Newark Office	8:30 a.m. to 5:00 p.m.
Region III	
Philadelphia:	
Regional Office	8:00 a.m. to 4:30 p.m.
Baltimore Office	8:00 a.m. to 4:30 p.m.
Charleston Office	8:00 a.m. to 4:30 p.m.
Pittsburgh Office	8:00 a.m. to 4:30 p.m.
Richmond Office	8:00 a.m. to 4:30 p.m.
Washington, D.C. Office.	8:00 a.m. to 4:30 p.m.
Region IV	
Atlanta:	
Regional Office	8:00 a.m. to 4:30 p.m.
Birmingham Office	7:45 a.m. to 4:30 p.m.
Caribbean Office	8:00 a.m. to 4:30 p.m.
Columbia Office	8:00 a.m. to 4:45 p.m.
Greensboro Office	8:00 a.m. to 4:30 p.m.
Jackson Office	8:00 a.m. to 4:30 p.m.
Jacksonville Office	7:45 a.m. to 4:30 p.m.
Knoxville Office	7:45 a.m. to 4:30 p.m.
Louisville Office	8:00 a.m. to 4:30 p.m.
Nashville Office	7:45 a.m. to 4:15 p.m.
Region V	
Chicago:	
Regional Office	8:15 a.m. to 4:45 p.m.
Cincinnati Office	8:00 a.m. to 4:45 p.m.

APPENDIX 1.—HOURS OF OPERATION FOR HUD REGIONAL AND FIELD OFFICES—Continued

Name of office	Hours of operation
Cleveland Office	8:00 a.m. to 4:45 p.m.
Columbus Office	8:30 a.m. to 4:45 p.m.
Detroit Office	8:00 a.m. to 4:30 p.m.
Grand Rapids Office	8:00 a.m. to 4:30 p.m.
Indianapolis Office	8:00 a.m. to 4:45 p.m.
Milwaukee Office	8:00 a.m. to 4:30 p.m.
Minneapolis-St. Paul Office.	8:00 a.m. to 4:30 p.m.
Chicago Indian Office	8:15 a.m. to 4:45 p.m.
Region VI	
Fort Worth:	
Regional Office	8:00 a.m. to 4:30 p.m.
Albuqerque Office	7:45 a.m. to 4:30 p.m.
Houston Office	7:45 a.m. to 4:30 p.m.
Little Rock Office	8:00 a.m. to 4:30 p.m.
New Orleans Office	8:00 a.m. to 4:30 p.m.
Oklahoma City Office	8:00 a.m. to 4:30 p.m.
Oklahoma City Indian Office.	8:00 a.m. to 4:30 p.m.
San Antonio Office	8:00 a.m. to 4:30 p.m.
Region VII	
Kansas City:	
Regional Office	8:00 a.m. to 4:30 p.m.
Des Moines Office	8:00 a.m. to 4:30 p.m.
Omaha Office	8:00 a.m. to 4:30 p.m.
St. Louis Office	8:00 a.m. to 4:30 p.m.
Region VIII	
Denver:	
Regional Office	8:00 a.m. to 4:30 p.m.
Denver Indian Office	8:00 a.m to 4:30 p.m.
Region IX	
San Francisco:	
Regional Office	8:15 a.m. to 4:45 p.m.
Honolulu Office	7:45 a.m. to 4:15 p.m.
Los Angeles Office	8:00 a.m. to 4:30 p.m.
Phoenix Office	8:00 a.m. to 4:30 p.m.
Phoenix Indian Office	8:15 a.m. to 4:45 p.m.
Sacramento Office	8:00 a.m. to 4:30 p.m.
Region X	
Seattle:	
Regional Office	8:00 a.m. to 4:30 p.m.
Seattle Indian Office	8:00 a.m. to 4:30 p.m.
Anchorage Office	8:00 a.m. to 4:30 p.m.
Anchorage Indian Office.	8:00 a.m. to 4:30 p.m.
Portland Office	8:00 a.m. to 4:30 p.m.

LEAD-BASED PAINT RISK ASSESSMENT PROTOCOL

(This document has been reproduced from the Risk Assessment Protocol that is included in the Application Kit.)

Table of Contents

Introduction

Purpose

This document sets forth the steps to be taken when conducting a lead-based paint risk assessment to determine whether lead-based paint hazards exist, and if so, provide solutions on reducing and managing such hazards (In-Place Management of Lead-based Paint Hazards in Public and Indian Housing) until complete abatement takes place. It also provides guidance on managing lead-based paint hazards as these hazards relate to housing authority maintenance and management practices.

Legislative Background

The Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1992 (the Appropriations Act), provides for a set-aside of $25 million for Public Housing Agencies (PHAs) and Indian Housing Authorities (IHAs), hereafter referred to as housing authorities (HAs), "to assess the risks of lead-based paint poisoning through the use of professional sampling and laboratory analysis in all projects constructed before 1980 that are, or will be occupied by families." Section 14 (a)(5) of the United States Housing Act of 1937, as amended by the Appropriations Act, provides that "effective interim measures to reduce and contain the risks of lead-based paint poisoning recommended in such professional risk assessments" are eligible modernization costs. While HAs are not required to conduct a lead-based paint risk assessment, the Department strongly encourages that they do so. When a housing authority receives funding under the set-aside, at a minimum, the attached risk assessment protocol shall be used.

Objective

The Lead-Based Paint Poisoning Prevention Act, as amended, requires that all pre-1978 family developments be randomly sampled for the presence of lead by December 6, 1994. (The 1980 date cited above applies to the conduct of lead-based paint risk assessments only.) Positive test results are used to develop abatement plans in conjunction with the rehabilitation and modernization of housing developments. While abatement is underway in many housing authority developments, it is clear that complete abatement of all lead paint surfaces in housing developments will take a period of time. Unless housing authorities adopt short-term measures, many children and workers may become poisoned unnecessarily.

The lead-based paint risk assessment process is a critical supplement to the comprehensive approach of lead-based paint testing, and subsequent abatement, which many housing authorities are now conducting. The "professionally administered" risk assessment is designed to determine whether lead-based paint hazards (contaminated defective paint, interior dust and exterior soil) are present and to assess whether existing management and maintenance programs are adequate to handle lead-based paint hazards during routine maintenance prior to complete abatement. The basic premise of this process is the review of existing maintenance and management practices and, the collection of dust and soil samples to determine where and how much lead is present in the housing environment. If lead is found, the process will provide information on how to reduce and manage lead-based paint hazards.

Positive results from a lead-based paint risk assessment will lead to an in-place management program for those housing developments where abatement activities are not possible in the near future. HAs are required to implement short-term, immediate response measures (in-place management) to prevent lead poisoning of resident children and maintenance personnel who may disturb lead-based paint surfaces in the course of their normal activities. In-place management activities are not eligible funding activities under the set-aside, however, they are eligible modernization expenses. In-place management includes cleaning and re-painting; education of residents; training and equipping of employees; and, regular monitoring of painted surfaces. Additionally, risk assessments can result in modifications to existing maintenance and management practices.

While the Department is requiring that HAs test soil for lead contamination as a part of risk assessment, a level of hazard for lead in soil has not been set, since that issue is currently being examined by the Environmental Protection Agency (EPA). Accordingly, soil test results will be gathered by the Department and provided to EPA. We will defer to EPA for the establishment of a hazard level determination and for guidance to housing authorities for action where such levels are exceeded. However, where States or local laws have established lead in soil standards and require action, HAs shall abide by the State or local requirements.

Health Perspective

With the publication of the Centers for Disease Control (CDC), Department of Health and Human Resources' revised guidelines entitled *Preventing Lead Poisoning in Young Children*, October 1991, it is anticipated that many more children may be identified as having an elevated blood lead level and, may be classified as being poisoned. CDC states that "childhood lead poisoning is one of the most common

and preventable pediatric health problems today." Efforts need to be increasingly focused on preventing lead poisoning before it occurs. In some neighborhoods, we know that lead poisoning can affect over half of all children. Studies indicate that children with elevated blood lead levels are more likely to have:

—lower intelligence and IQ scores;
—learning and reading disabilities;
—increased high school dropout rates;
—reduced reflexes; and,
—a variety of other adverse health effects.

Lead poisoning incidents among construction and maintenance workers have also been reported with increasing frequency.

The major source of lead poisoning is now known to originate largely from contaminated deteriorated house paint and soil. Most children are poisoned by inadvertent ingestion of dust and soil. Additionally, some children are occasionally poisoned by actually eating paint chips.

Intact lead-based paint that is covered by a number of layers of non-leaded paint presents a hazard if it is disturbed or it deteriorates and contributes lead to house dust or soil. Contaminated house dust and soil which exceed established levels determined to be hazardous (note previous discussion of soil) present a hazard because it is readily available to the child. As long as lead paint is intact and not subject to abrasion, damage or disturbance, it presents no current risk to humans; however, the mere opening and closing of windows may create a hazard. Children are poisoned as a result of being exposed to lead—sometimes by peeling paint chips, but much more commonly by lead dust. Lead dust is invisible, sticky and hard to clean up. It gets on children's hands (and then into their mouths) through normal behavior. It does not take much lead dust to poison a child. Identifying and controlling these hazards are the focus of the risk assessment and in-place management processes.

Conducting risk assessments and implementing effective in-place management are not substitutes for complying with legal requirements to test and abate. However, these measures do provide a way to deal with LBP hazards responsibly and cost effectively, until long-term action can be taken. HAs must evaluate on a case-by-case basis the cost of in-place management versus speeding up complete lead abatement.

Users of the Risk Assessment Protocol

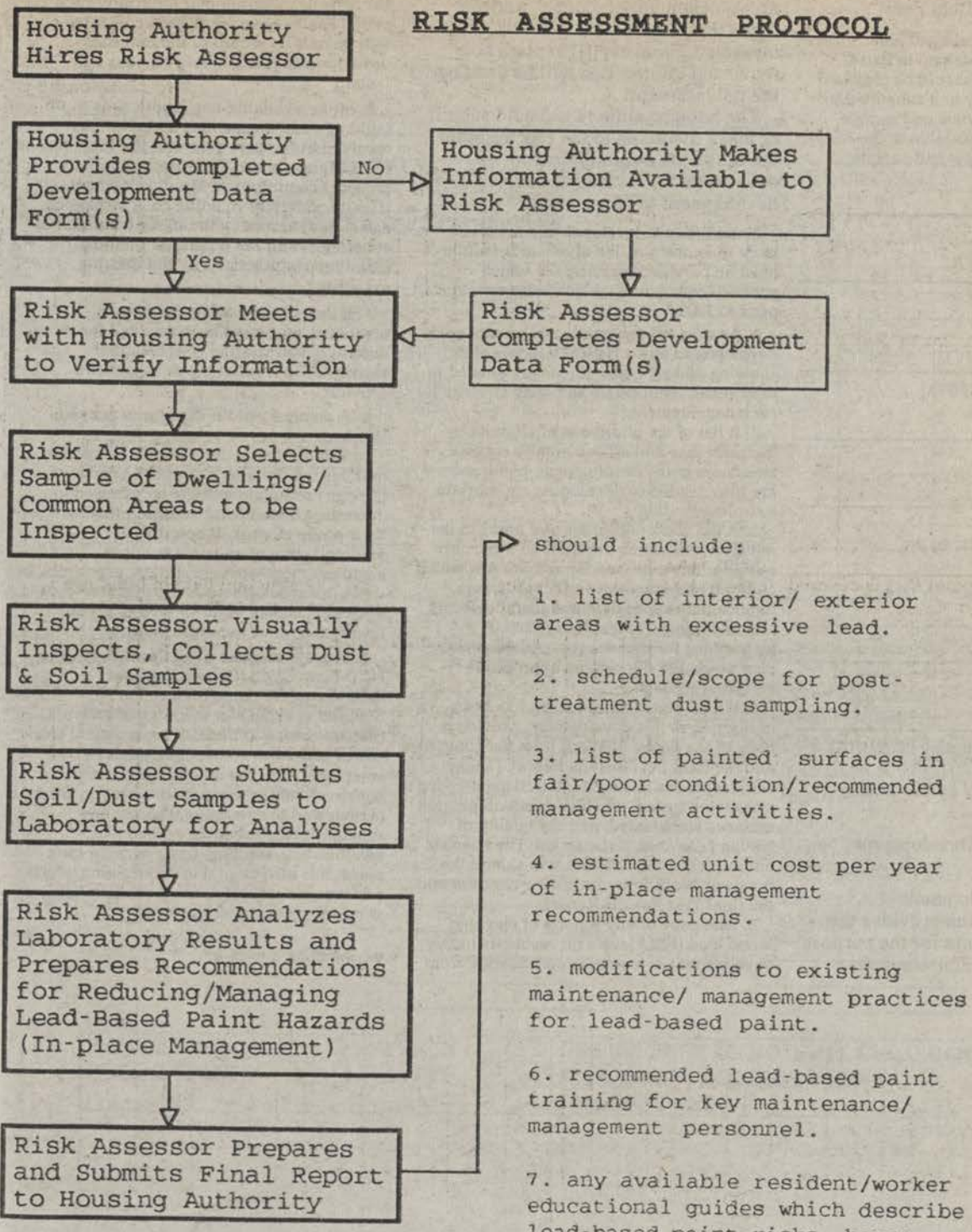
The enclosed document is for use by both HAs and the risk assessment firm that is under contract with a HA to perform this service. The Department believes that a HA's use of this document will be highly beneficial because it will provide insight for formalizing the authority's lead-based paint program and assist in making the best use of available funds.

Soliciting the Services of A Risk Assessor

To solicit the services of a Risk Assessor, housing authorities should develop a Request for Proposal that includes the following information:

1. A copy of the Risk Assessment Protocol.
2. Scope of Services:
   a. Housing authority size;
   b. Development(s) to be assessed;
   c. Name of the Development(s);
   d. Number of units in the Development(s);
   e. Location of units which are considered a part of the development;
   d. Construction date of buildings contained in the development;
3. Proposal submission requirements.
4. Required Contractor Qualifications.
5. Date and Time of Pre-Bid Conference.
6. Factors for Award.

BILLING CODE 4210-33-M



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Part I—Development Data Form

Note: The following document and information requests contained in Part I, Section I and Section II, should be prepared by the Housing Authority and submitted to the Risk Assessor for review and sample development; or made available to the Risk Assessor on site for review and sample development.

Development Name

HUD Project Number

Contact Information

Housing Authority (PHA/IHA)

Telephone Number

Executive Director

Housing Authority Contact for this Development

Risk Assessment Firm

Date (Document completed by PHA/IHA)

Part I: To be Prepared by the Housing Authority

Section I: Requested Development Information

Introduction: Development background information provides the Risk Assessor with data for the purpose of identifying those units, common areas, community facilities, and site areas that should be tested and inspected. Brackets ([]) explain how requested information will be used by the risk assessor.

The housing authority should submit or make available to the risk assessor the following information and documents for review for *each* development to be assessed:

Note: When a development consists of more than one site, the above information must be provided for each site which contains family units which were constructed prior to 1980.

1. An 8" x 10" schematic site plan of each development and a typical building plan showing all unit types. [Plans are needed to develop an appropriate sampling strategy for each development.]

2. A list of the addresses of all units by bedroom size and all community service structures in the development. [Addresses are also needed to develop an appropriate sampling strategy.]

3. A list of *all* addresses and areas in the development which are used on a *regular* basis for day care and for activities in which children under age seven (7) participate. Include licenses of day care facilities/units and any reports of lead-based paint inspections for those areas. [Addresses are also needed to develop an appropriate sampling strategy.]

4. If lead-based paint testing has been performed at this development, provide a copy of the Scope of Work from the contract and the final Test Results Report. [These documents are needed to determine if enough units were tested, whether or not all painted surfaces were tested, and the quality of testing.] *Optional Submission:* The housing authority has the option *not* to submit the Scope of Work from the testing contract and the final Test Results Report.

5. One copy of any reports of elevated blood lead (EBL) levels for residents in this development *or* a written certification from the housing authority that the appropriate public health agency has been contacted and that there is no record of EBLS at the development. [EBLs are an obvious risk factor.]

6. Make available any health, safety, or building code inspections and citations received in the past year and the most recent HUD Maintenance Audit findings relative to physical conditions of the development. [Health, safety or building code violations assist in determining the likely condition of substrates, and the quality of building maintenance practiced by the housing authority.]

7. If design consultants (architects, engineers, etc.) have been retained for current modernization or substantial maintenance work at the development, provide:

a. A summary of the designer's Scope of Work; or

b. The section of the A/E contract which outlines the designer's Scope of Work. [Design consultant activity is reviewed to determine if lead paint considerations are in their scope of work. If not, then modernization work could result in significant lead dust generation, especially, in those instances where modernization work is done in occupied units, or where cleanup is insufficient prior to reoccupancy.]

8. Provide or make available a copy of HUD Form 52825 (Comprehensive Assessment/Program Budget, Part II, Supporting Pages) for modernization work (renovations, additions, or replacement work which may have created leaded dust) completed after the date of the original construction. [Previous modernization work is reviewed to determine whether any substantial disturbances of lead (e.g., sandblasting, sanding, scraping, etc.) took place. It is also helpful in determining which surfaces are *unlikely* to be a problem (e.g., window replacement in 1980.)]

BILLING CODE 4210-33-M

9: DEVELOPMENT PROFILE

BUILDING CHARACTERISTICS

AUTHORITY: _____ DEVELOPMENT NAME: _____
DEVELOPMENT ADDRESS: _____
NO. UNITS: _____ 'NO. BUILDINGS: _____ NO. STORIES IN TALLEST BUILDING: _____
CONSTRUCTION DATE: _____ MAJOR MODERNIZATION: __NO OR __ YES, IN _____(YEAR)
SHORT SUMMARY OF MODERNIZATION WORK: _____
_____
_____
_____

	SINGLE FAMILY DETACH	DUPLEX 1 STORY	DUPLEX TOWN HOUSE	GARDEN TYPE– UNITS =>3	TOWN HOUSE– UNITS =>3	WALKUP FLAT	ELE– VATOR FLAT	OTHER	TOTAL
0 BR									
1 BR									
2 BR									
3 BR									
4 BR									
5 BR									
6 BR									
TOTAL									

EXTERIOR:
(CHECK ALL THAT APPLY)

___ BRICK
___ OTHER MASONRY
___ WOOD OR HARDBOARD
___ METAL SIDING
VINYL SIDING:
___ OVER PAINT
___ NOT OVER PAINT
___ STUCCO
___ SYNTHETIC STUCCO (DRIVIT, ETC.)
___ OTHER:
_____
_____
_____
_____
_____
_____

INTERIOR WALL/ CEILING FINISHES:
(CHECK ALL THAT APPLY)

___ GYPSUM WALL BOARD
___ PLASTER
___ BRICK
___ CONCRETE
___ WOOD PANELING
___ VINYL/FABRIC
___ OTHER:
_____
_____
_____

NAME/LOCATION OF PUBLIC SPACES	APPROX SQ. FT.	USE (BE SURE TO NOTE ALL CHILD CARE AND OTHER FACILITIES USED BY CHILDREN UNDER 7

BILLING CODE 4210-33-C

10. Are original drawings and specifications, or records for this development available for review?

yes _____

no _____

If yes, do the records or specifications (as-built drawings, purchasing records, specifications) call for the use of lead-based paint?

yes _____

no _____

[This information enables the risk assessor to focus attention on those areas/surfaces most likely to present a hazard.]

11. Probable LBP Surfaces: In this development, how does the housing authority rate the paint on like surfaces (i.e., interior window wells, door frames, etc.) which were originally painted before 1980 (even if subsequently repainted), and the overall condition of the surfaces to which the paint is applied.

Rate conditions as follows:

A. Good—Intact; less than five years since the last paint job.

B. Fair—Intact but worn, more than five years since last paint job; minor chips from normal wear and tear, but no adhesion or substrate problems.

C. Poor—Non-intact; severely worn or weathered, no longer adhering (peeling, flaking, cracking, etc.), or substrate deteriorating.

[Response to this question will begin the process of making it clear how well maintenance of intact painted surfaces is addressed, and will assist the risk assessor in making recommendations for in-place management.]

Project Data Summary Inventory of Painted Surfaces

BILLING CODE 4210-33-M

INVENTORY OF PAINTED SURFACES

PAINTED PRIOR TO 1980	SURFACE NAME	SUBSTRATE (CHECK ALL THAT APPLY)					CONDITION		
		WOOD	METAL	PLASTER/ GYPSUM	MASONRY/ CONCRETE	OTHER (LIST)	GOOD	FAIR	POOR
	INTERIOR WALLS/ CEILINGS								
	INTERIOR DOORS								
	INTERIOR DOOR FRAMES								
	EXTERIOR DOORS								
	WINDOWS								
	WINDOW FRAME TRIM								
	CABINETS								
	CLOSET/PANTRY SHELVES & BRACKETS								
	STAIRS (TREADS, STRINGERS AND RISERS)								
	OTHER INTERIOR TRIM (BASE,CROWN, CHAIR RAIL, ETC.)								
	OTHER INT. METALS (HANDRAILS, PAINTED HRDWR, MED CABNT.)								
	EXTERIOR WALL SURFACES								
	EXTERIOR TRIM (FACIA,SOFFITT, RAKES ETC.)								
	EXTERIOR METALS (COLUMNS, POSTS, HANDRAILS,ETC.)								
	PAINTED APPLIANCES								
	OTHERS, LIST:								

BILLING CODE 4210-33-C

12. Substantial Maintenance: Provide available documents or briefly describe any substantial (non-routine) maintenance projects conducted at this development. Indicate in the last column if substantial maintenance work was completed for part of the development or for the entire development.

	Year completed	Scope of work	Partial or complete
Example:	1973.....	Scraped and painted all exterior siding and trim..	Partial: 43 out of 123 units.

[Previous substantial maintenance work is reviewed to determine whether any substantial disturbances of lead (e.g., sandblasting, sanding, scraping, etc.) took place. It is also helpful in determining which surfaces are *unlikely* to be a problem (e.g., window replacement in 1980.)]

13. Lead-based Paint Abatement: Has the housing authority conducted any systematic lead-based paint abatement at this development?

yes _____
no _____

If yes, describe briefly or make available documents which outline the Scope of Work.

Was previous systematic LBP abatement completed?

yes _____
no _____

If no, please describe remaining work to be completed?

Did abatement include clearance dust sampling.

yes _____
no _____

[This information will help to focus attention on those surfaces that have not yet been abated.]

14. Overcrowded Units: Does this development have a problem with overcrowded units?

yes _____
no _____

If yes, what percent of the units in the development are occupied by families which exceed the housing authority's occupancy standards, i.e. overcrowding? _____%

List up to 5 units, by bedroom size, which exceed the housing authority's occupancy standards.

Address/unit number	Number of bedrooms	Number of occupants

[Overcrowded units are more likely to have abused or overused painted surfaces, and may also indicate areas where more children are exposed.]

15. Turnover: How many units were vacated in the development in the past 12 months? _____

How many of these units have been reoccupied? _____

[Turnover procedure is examined to determine if lead dust is generated during unit preparation, and whether or not defective paint is repaired prior to occupancy.]

16. Number of Children: Estimate the number of children in the following categories residing in this development.

0–7 _____
8–17 _____

[The more children, the greater the potential risk if lead paint is present.]

17. Please provide the name of a contact person most familiar with the above for supplemental information.

18. If any of the above information or documents are not available, please explain why below:

Part I: To be prepared by the Housing Authority.

Section II: Housing authority-wide maintenance and management.

Introduction: A review of the housing authority's existing management and maintenance practices, including individual development use and occupancy information, will provide an indication of the degree of lead-based paint hazards faced by the housing authority and how well the authority will be able to respond to in-place management activities.

Note: Questions relating to the Public Housing Management Assessment Program (PHMAP) have been included in this Section. Definitions of the specific component indicators have been provided where applicable. PHMAP questions are not applicable to Indian Housing Authorities.

1. One copy of any reports on elevated blood lead levels for housing authority maintenance staff. [Elevated blood lead levels are an indication of hazards.]

2. A copy of the housing authority's approved Five-Year Funding Request Plan (FRP) (HUD Form 52824) or for Comprehensive Grant Program participants, the Five Year Action Plan, Annual Statement and Performance Evaluation Report (HUD Form 52837) including budgets, schedules, and staffing program. Include all backup information applicable to the developments where LBP risk assessments will be conducted. [The FRP provides information on how abatement needs can be integrated into modernization work and how long in-place management will be necessary.]

3. Provide or make available a list of housing authority budgeted positions (maintenance and management). [Will help determine how in-place management work will be accomplished.]

4. Work Order System: What is the housing authority's grade for Indicator #6 (Work Order System) under the Public Housing Management Assessment Program? [Grades less than "C" indicate the need for improvement. To achieve a grade "C" at least 95% of the housing authority's emergency items were corrected with 24 hours or emergency status was abated, and the number of non-emergency work orders outstanding at the end of the authorities immediate past fiscal year is greater than 8% and less than or equal to 10% of the total number of work orders received during the immediate past fiscal year, excluding cyclical work orders.] This question is not applicable to Indian Housing Authorities.

Grade _____

Does the current work order system:

a. Allow for the identification of units where lead-based paint is present?
yes_____ no_____

b. Prioritize in any way those units where lead-based paint is a problem?
yes_____ no_____

[Workers should know where potential lead paint hazards exist so that proper precautions can be taken.]

Does the housing authority have an official maintenance manual? If yes, provide a copy.

yes_____ no_____

If yes, does the maintenance manual adequately address lead-based paint to inform maintenance workers of the appropriate protection and cleanup measures to take when dealing with possible lead paint surfaces? Please make available a copy of the applicable sections.

yes_____ no _____

[Standard operating procedures should be in place informing workers on how to protect themselves, residents and the housing environment when dealing with lead-based paint surfaces.]

5. Repainting Policy: Does the housing authority have a repainting policy? If yes, please provide a copy of the policy.

yes_____ no_____

If yes, does the policy address lead-based paint?

yes_____ no_____

Does the housing authority have a repainting program for occupied units?

yes_____ no_____

Does the housing authority provide paint to residents and encourage them to repaint their own units?

yes_____ no_____

Are defective paint surfaces repaired prior to repainting?

yes_____ no_____

If the housing authority does have a repainting program, how often is repainting undertaken?

_____years

[The repainting policy is examined to determine if scraping and other surface preparation may be releasing significant levels of lead dust. Additionally, more frequent repainting usually means that painted surfaces are more likely to be intact (with less dust generated).]

6. Turnover Procedure: What is the housing authority's grade for Indicator #5 (Unit Turnaround) under the Public Housing Management Assessment Program? [Grades less than "C" indicate the need for improvement. To achieve a grade "C" the housing authority has to have an established system to track the duration of vacancies, and the average number of calendar days for vacant units to be prepared for re-rental and for new lease to take effect, during the housing authority's immediate past fiscal year, is greater than 25 calendar days and less than or equal to 30 calendar days.] This question is not applicable to Indian Housing Authorities.

Grade _____

Does the housing authority have a unit turnover policy?

yes_____ no_____

Does the policy address lead-based paint in units to be turned over for reoccupancy? If yes, provide a copy of the policy.

yes_____ no_____

Does the housing authority repair chipping, peeling paint when preparing a vacant unit for reoccupancy?

yes_____ no_____

Are any precautions taken regarding lead when turning over units?

yes_____ no_____

Does the housing authority repaint units prior to reoccupancy

yes_____ no_____

For each development to be assessed, how many units were vacated in the development in the past 12 months?

How many of these units have been reoccupied?

[Turnover procedure is examined to determine if lead dust is generated during unit preparation, and whether or not defective paint is repaired prior to occupancy.]

7. Trash Removal: Does the housing authority have special procedures to handle construction debris. If yes, do the precedures address lead-based paint? [Trash removal is examined to determine whether lead debris is disposed of properly, and whether children could be exposed to lead by getting into trash.]

yes_____ no_____

8. Hazardous Substance Training: Does the housing authority maintain Material Safety Data Sheets (MSDS) relating to:

Asbestos_____

Lead_____

Does the housing authority have a Right to Know Program?

yes_____ no_____

[Determines if the authority addresses environmental and occupational health hazards.]

Commercial/Industrial Uses: To your knowledge are there facilities (radiator repair shop, automobile battery plant, or large renovation project) that may use, distribute, or process products containing lead within one-half mile of the development? Are there any environmental hazards near the development such as a Superfund Site, chemical storage facility, unregulated salvage and scrap yards, or polluted soil or water sites? [Nearby lead sources may have an important impact on soil lead levels and sampling design.]

yes_____ no_____

Part II—Risk Assessment Report Form

Note: The information contained in Part II, Section I and Section II, should be prepared by the Risk Assessor as a result of information submitted by the Housing Authority for review and sample development.

_____

Development Name

_____

HUD Project Number

Contact Information

_____

Housing Authority (PHA/IHA) Telephone Number

_____

Executive Director

Housing Authority Contact for this Development

_____

Risk Assessment Firm

_____

Date (Document completed by PHA/IHA)

Part II: To be completed by the Risk Assessor.

Risk Assessment Meeting

A meeting is to be held between the Risk Assessor and Housing Authority management to discuss the completeness and accuracy of submitted or gathered Development Data.

_____

Housing Authority

_____

Address

_____

Risk Assessment Firm

_____

Name of Risk Assessor

_____

Date

LIST ALL ATTENDEES AT SITE ASSESSMENT MEETING

Name	Position	Organization

Part II: Risk Assessment Report Form.

Section I: *Clarification of Development Data Form.*

A. Required Development Data:

1. List all documents which were submitted or made available by the housing authority.

2. Please explain if the housing authority did not submit or make available documents which were requested in the DDF, Part I, Required Development Information. Will any missing documents be available in the future? (Refer to Required Development Information #17.)

B. Housing Development History:

1. *Probable Lead-Based Paint (LBP) Surfaces:* (See item 11) Was the housing authority's list complete? Note surfaces which were not included. Discuss the accuracy of the housing authority's ratings—good, fair, and poor—of the overall conditions of painted surfaces. (Good = intact; Fair = intact but worn, minor chips from wear and tear but no adhesion or substrate problems; Poor = severely work or no longer adhering or substrate deteriorating, i.e., peeling, flaking, cracking, etc.)

2. Is the overall condition of probable LBP surfaces uniform? Are there surfaces which were observed in exceptionally good or poor condition?

3. *Lead-based Paint Abatement:* (Item 13)—Has any systematic lead-based paint abatement taken place in this development? Describe the extent to which lead-based paint was abated?

a. Was abatement part of a systematic plan or in response to an EBL?

b. Was the decision to abate based on reliable test results?

c. Is there evidence that lead-based paint hazards remain in the housing environment after abatement? (Example: replaced window but not the sill.)

d. Has any clearance testing been performed? If yes, describe protocol used?

4. *Substantial Maintenance:* (Item 12)—Have any previous substantial maintenance

projects resulted in the abatement of lead-based paint? Please describe.

Is it likely that any of the previous substantial maintenance work resulted in a substantial increase of lead available in the housing environment, e.g., recent scraping of exterior siding. Please describe.

C. Development Use and Occupancy:

1. *Overcrowded Units*: (Item 14)

What percent of the Development's units are overcrowded?

2. *Child Care*: (Item 3)

If known, what percent of the units are used on a regular basis for day care of children?

3. *Number of Children*: (Item 15)

Calculate the average number of children aged 0–7 per unit.

_____/unit.

4. *Turnover Rate*: (Item 6)

For this development calculate the percentage of units vacated in the past 12 months.

_____/%

What is the housing authority's explanation of its turnover rate if it is over 20%.

D. Elevated Blood Lead Level Cases:

1. Based on your interviews and discussions, is there a local blood screening program?

Is there a reporting procedure for children identified as having an EBL such that the PHA would be automatically notified when EBL children are identified?

2. Based on interviews and discussions, does an EBL constitute an emergency under the housing authority's tenant Selection and Assignment Plan?

3. If there are or have been EBL cases, summarize how they were managed by the housing authority. Were the residents relocated promptly to a "lead-free unit?" Have the units from which they were relocated been abated and reoccupied?

4. Is the housing authority in compliance with HUD's regulation regarding children with an EBL?

5. Based on interviews, does the housing authority have a lead-based paint tenant education policy for this development, including encouragement to have children screened for lead poisoning, specific information on the location of lead paint hazards, housekeeping and cleaning information regarding reducing lead dust levels.

E. Review of Previous Testing: (The Housing Authority has option of not submitting this information for review)

Please report on the following if this information is provided by the housing authority in the requested submittals.

1. *Apartment Interiors*: Summarize the Scope of Testing work including the number of units tested, the areas in each unit, the surfaces tested in each area, and the number of readings taken on each surface.

2. *Common Areas/Community Facilities*: Were common areas tested? Describe the Scope of Testing using the same criteria as the above.

3. *Soil:* Was soil tested? Describe the protocol and explain why used.

4. *Quality Control*: Describe the measures taken to ensure the accuracy of XRF testing:

a. Substrate correction:

b. Averaging multiple readings:

c. XRF calibration check:

d. Other:

5. *Confirmation by Laboratory Analysis*: Were inconclusive XRF readings confirmed by laboratory analysis?

6. *Sample Collection Procedures:* How were the laboratory samples collected?

7. *HUD Guidelines*: Was testing performed in conformance with the recommendations outlined in the HUD Interim LBP Guidelines? If not, specifically describe non-conforming items.

Part II: To be completed by the Risk Assessor.

Section II: Clarification of Housing Authority's maintenance, management and staffing information.

Note: The Risk Assessor should respond to each maintenance, management and staffing question in relationship to how the housing authority's policies address lead-based paint.

A. Maintenance:

1. Based on your interviews and observations:

Is the housing authority maintaining its paint surfaces in good condition?

Are these surfaces maintained in a non-defective condition?

2. Based on your interviews and observations:

Are there extraordinary or chronic maintenance items (e.g., roofs, leaky plumbing) which need attention?

Do any of these items affect the condition of painted surfaces?

3. *Work Order System:* (Section II, Item 4)

Did your discussion, inspection or review of required submissions indicate that work orders were being completed in a timely and effective manner? [Timely and effective manner means that at least 95% of the housing authority's emergency items were corrected within 24 hours or emergency status was abated, and the number of non-emergency work orders outstanding at the end of the authorities immediate past fiscal year is greater than 8% and less than or equal to 10% of the total number of work orders received during the immediate past fiscal year, excluding cyclical work orders.] This question is not applicable to Indian Housing Authorities.

Is the work order system adequate to address LBP issues, e.g., identifying units with lead-based paint, prioritizing maintenance of those units with lead-based paint?

Repainting Policy: (Section II, Item 5)

Summarize the housing authority's repainting policy.

Discuss how this policy addresses lead-based paint and the overall condition of painted surfaces in the development.

B. Management:

1. *Turnover Procedure:* (Section II, Item 6)

Summarize the housing authority's unit turnover policy as it relates to the routine preparation of units for reoccupancy.

Approximately, how many units were prepared for reoccupancy in the past 12 months?

2. *Modernization:* Section I, Item 8; Section II, Item 2)

Evaluate the housing authority's modernization plans for adequacy of LBP abatement for the development. (Part I, Section I, #8; and Section II, #2.)

3. What is the schedule for modernization?

Is the schedule consistent with the presence of lead-based paint hazards (immediate and potential)?

4. At what stage is the housing authority in the implementation of the modernization program for the development?

C. Staffing:

1. Summarize the housing authority's programs for protecting workers from hazardous substances.

2. Based on interviews with housing authority managers and maintenance workers, has the housing authority initiated any worker training programs relative to lead-based paint?

3. Is there any indication that the housing authority's workers are trained in the use of respirators, HEPA vacuums, and clearance procedures?

4. Does it appear that the housing authority is deploying its maintenance staff properly to handle lead-based paint hazards?

Part III: Sampling and Inspection Guidelines

Introduction: The sampling and inspection guidelines are to assist risk assessors in selecting the apartments, common areas, community facilities, and site areas to be inspected and tested for the presence of lead-based paint hazards. With regard to dust, which is one of the most immediately accessible sources of lead exposure, for children as well as adults, the objective is to find places that are most likely to have the highest loadings of dust lead in a given development, not to take a representative sample of all units or common areas. This method of sampling, sometimes called "worst case" sampling, saves money while achieving the goal of determining the likely risk of lead exposure in a development.

Dust lead loadings are expressed in terms of micrograms of lead per square foot. This is a good way of measuring the amount of dust lead that might be accessible to children, but it is, of course, strongly associated with the amount of dust on the surface being sampled as well as the concentration of lead in the dust.

Experience indicates that it is important to take dust samples in the following places, if possible:

- Inside apartment units in which a child with an elevated blood lead level resides.
- Inside units which the housing authority or risk assessor suspects are in poor condition or are randomly selected, and therefore are most likely to contain lead hazards.

Within units and common spaces, dust samples should be taken on floors and windows wells—where the sash rests against the sill—or window sills if the wells are not accessible. In survey after survey, it has been found that window wells have higher dust lead loadings than any other interior dust sampling location, probably because window wells are rarely cleaned and because they can catch exterior as well as interior sources of lead.

In developing the following sampling and inspection guidelines, HUD considered cost as well as the objective of determining risks. The following recommendations provide the minimum number of units or spaces to be inspected and the minimum number of samples to be taken.

Objective: These guidelines are to assist risk assessors in evaluating paint condition and dust/soil lead levels in the apartment units, community facilities, and other areas. These guidelines are minimum requirements. In addition to the required samples and inspections discussed below, samples should be collected in any other areas which the housing authority or risk assessor has reason to believes may represent hazards for residents.

These guidelines indicate that samples should be collected in two (2) types of units. The first is those units in which a child has been identified as having an elevated blood lead level. The second are "worst case" units—those units which the housing authority or risk assessor suspects are most likely to contain lead hazards. Such "worst case" units will usually be units in poor condition and/or those which are randomly selected by the risk assessor. These units should provide a sense of the dust lead levels and condition of a typical unit.

Section I. Inspections and Dust Samples To Be Collected in Apartment Units

A. Required Number of Units to be Inspected and Samples Collected:

1. All units in which an elevated blood lead level (EBL) child has been identified should be inspected (and condition of paint recorded on the attached data collection form), and dust samples should be collected as described below. Such units do not count toward the unit inspection/sampling requirement described in the table below.

2. For scattered site units (units in which the housing authority cannot establish that the buildings/units where constructed at the same time, by the same builder, and have similar paint histories), each unit shall be inspected and samples collected.

3. The number of units to be inspected/sampled (in addition to EBL units) is in proportion to the number of units in the development, as indicated in the following table.

Number of units in development	Number of units to inspect and collect samples
1– 4	all
5– 74	5
75–124	6
125–174	7
175–224	10
225–299	12
300–399	15
400–499	18
500+	[1] 20

[1] Per 500 units, plus 2 for each additional increment of 50 units.

B. Unit Selection Criteria:

1. All units with an EBL child *must* be tested.

2. If possible, only housing units designated for families with children (i.e., with three (3) or more bedrooms, or if necessary, two (2) bedrooms) should be sampled. The number of required units to be sampled according to the above table should be divided as follows:

a. *Worst Case Units:* A worst case unit is a unit that the housing authority or risk assessor believes is most likely to have lead hazards assessible to children. These units will be in poor condition. In particular, priority should be given first to those units that have housing code violations and second, to those units in poor condition (i.e., with peeling paint and poor housekeeping). Another source for a worst case unit is one in which renovation was recently conducted or other work that has disturbed paint and created dust. Worst case units should represent 50%–60% of the units required in the sample table.

b. *Randomly Selected Units:* The risk assessor should randomly select 40%–50% of the units required in the sampling table.

C. Required Sample Collection Within Units:

As a rule, the housing authority and residents should receive notice of intent to perform sampling in advance and in compliance with requirements of the lease agreement. This notice should be the shortest time that will allow the housing authority to comply with requirements of the lease on giving notice. The housing authority and residents must be instructed not to perform any special cleanings prior to sample collection and inspection so as to assume an accurate sample of existing hazards.

1. *Rooms To Be Sampled.* Within each unit, the living room, kitchen, and two (2) children's bedrooms should be sampled and inspected. (One child and one adult bedroom should be sampled and inspected if two children's bedrooms are not possible.)

2. *Number and Location of Samples.* In each selected room, samples should be obtained from one (1) window well (or, if not possible, window sill) and one (1) floor area. The square footage of the window area sampled must be measured and recorded. A one square foot area of floor should be sampled.

a. *Window Wells (or Sills).* In EBL units and units selected as "worst case" units, select those windows that are in poor condition or that are opened and closed most frequently. In units that are randomly selected, randomly select the windows to be tested.

b. *Floors.* In EBL units and units selected as "worst case," sample floors in areas likely to have high concentrations of lead dust, e.g., under peeling paint, under windows, near entryways, corners. In units that were randomly selected, split the samples in the unit between those collected near entryways, corners, and those collected under windows. If the floor cannot be sampled (e.g., because of carpeting), collect an additional window sample. NOTE: Carpeting is not an eligible HA purchase item and therefore has not been installed by the PHA.

D. Required Inspection of Units:

In each unit from which samples are taken, inspect all surfaces in all rooms for defective paint conditions and record results on the attached data collection form.

Section II. Common Areas

Inspect and collect dust samples as follows:

A. Common Hallways and Stairways (1–2 levels): Collect samples from the following minimum number of common halls/stairs. (*All* halls/stairs that are connected to an EBL unit shall be inspected and have samples collected. These shall not be counted in the overall sample totals otherwise required.)

1. Low-Rise and Mid-Rise Buildings (up to 3 levels): For buildings in low-rise and mid-rise developments, inspect and sample a common hall/stair connected to the unit to be inspected/sampled. Collect two (2) dust wipe samples, one at the entry area and one from the first level landing.

2. High-Rise Buildings (4 or more levels): Inspect and collect samples in "high traffic" areas as follows:

a. 4–6 Level Buildings

• Corridors—collect samples from floor areas and window wells (if present):

Levels	Number of floor sample locations	Number of window sample locations.
Ground	2	1
3 or 4	1	1
Top	1	1
Total	4	3

• Stairwell—collect samples from floors at landing areas and window wells (if present):

Levels	Number of stair/tread landing sample locations	Number of window sample locations [1]
Ground	1	1
3 or 4	1	1
Top	1	1
Total	3	3

b. 7–12 LEVEL BUILDINGS:

• Corridors—collect samples from floor areas and window wells (if present):

Levels	Number of floor sample locations [1]	Number of window sample locations [1]
Street	2	1
3 or 4	1	1
7, 8, 9	1	1
Top	1	0
Total	5	3

• Stairwells—Collect samples from floors at landing area and at window wells (if present):

Levels	Number of stair/tread sample locations [1]	Number of window sample locations
Street	1	1
3 or 4	1	1
7, 8, 9	1	1
Top	1	0
Total	4	3

[1] Select "worse case" areas where there is visible accumulation of dirt and dust if possible.

c. 13–20 LEVEL BUILDINGS:

• 13–20 levels: Follow the procedure for floors 7, 8, and 9, collect one sample from corridor floor and one sample from window well (if present). Collect one sample from floors at landing area and one from window well (if present).

• 20+ levels: Repeat procedure above for floors 19–13, one for every ten levels.

B. Location for Inspection of Corridors/Stairwells: Inspect and record on attached data form, the conditions of all painted surfaces at all locations where samples are collected.

1. For high-rise buildings, inspect painted surfaces at levels from which samples are collected.

2. For low and mid-rise buildings, inspect the entire hall/stair.

Section III. Community Buildings, Day Care, Health Care, Recreational, Other Program Spaces Accessible To Children, and Management Offices

A. For Spaces Up to 2000 Square Feet: Collect samples as follows:

1. Floors: Collect two (2) samples from widely separated locations in "high traffic" areas regularly used or accessible to children.

2. Window Wells/Sill: Collect two (2) "worst case" samples, preferably from window wells.

B. For Spaces Over 2000 Square Feet:

1. Floors: Collect one (1) additional sample for each increment of 2000 square feet.

2. Window Sills/Well: Collect one (1) additional sample for each additional increment of 2000 square feet.

C. Management Office: Collect one (1) sample from the floor of the resident waiting area; two (2) if area is more than 400 square feet.

D. Inspection Requirements: Inspect and record on the attached data collection form the condition of all painted surfaces in the areas in the community facilities and management offices which are accessible to children. Inspect interior and exterior areas.

Section IV. Soil Sample Collection (See F. Below for Sample Technique)

A. Buildings: Collect one 50 mil. composite sample (8–10 small scoops at 10–20 ft. spacing) at 0–3 feet away from building and one composite sample at 10–20 feet away from building. Collect samples in bare areas near suspect surfaces (older paint). If paint chips are present and could be assessible to children, include them in composite sample.

1. Low-Rise Building: Collect soil samples at exterior of each unit sampled/inspected.

2. Mid-Rise Building: Collect soil samples at an exterior area near each common hallway sampled/inspected.

3. High-Rise Buildings: Collect one (1) composite soil sample at each building face greater than 30 ft. in length, maximum of six (6) samples per building.

4. Scattered Site Housing Units: Collect soil samples at exterior of each unit sampled/inspected.

B. Play Areas: Collect a composite sample at each play area. Collect at areas most likely to be used by children, e.g.—at bottom of slide, under swings, in sand play area, etc.

C. Parking Lots: Collect a composite sample from the perimeter of the parking lots which have a capacity of 30 cars or more.

D. Main Roadways: If "high traffic" roadways abut or intersect the site, collect a composite sample at edge of roadway.

E. Inspection: Inspect painted surfaces in areas where samples have been collected.

F. Soil Collection Technique—Composite samples should be obtained by using a 50 mil plastic centrifuge tube to scoop up 8–10 separate portions of approximately 5 mil each. Scoops should be taken from bare areas to minimize organic materials in sample. If bare areas do not exist, use the tube or other means to expose soil for each area to be scooped and include miscellaneous organic material in sample. Do not try to remove extraneous material in the field, samples will be screened and sieved in the laboratory. Wet and frozen soil can be included in samples. NOTE: Avoid using tools to collect soil since they may cross-contaminate samples unless completely cleaned between samples.

Section V: Paint Chip Samples

Collect a paint chip sample at any area where paint is in poor condition and readily accessible to children. If there are many such similar areas, collect a few samples from representative areas, e.g., if all window wells are in poor conditions, collect paint chips from 2–3 window wells to verify presence of lead-based paint.

Section VI: Procedures for Collecting Dust Samples

Supplies Needed for Dust Sample Collection

1. Diaper Wipes—
   Do not use the thick kind
   Wetting agent should not be alcohol-based
2. Tape Measure
3. Pencil (do not use a permanent marker)
4. Disposable Gloves—not sterilized
   For example, Fisher Scientific No. 11–394–36B

5. Polyethylene Centrifuge Tubes—not sterilized (50 ml size)
   for example, Fisher Scientific No. 05–500–20C
6. Stainless steel knife
7. Field Sampling Forms
8. Template (optional)
   Guard against sampling contamination
9. Camera & Film (optional)

Dust Wipe Sampling Procedure

1. Identify area to be wiped, but do not measure yet. Avoid walking on or touching the surface.

2. Remove first wipe and throw it away.

3. Put disposable glove on one hand. Use a new glove for each sample.

4. Remove second wipe and insert aseptically into centrifuge tube. Label it with a unique identifier as the first blank.

5. Remove wipe with gloved hand, shake open, and place it flat at one corner of the surface to be wiped.

6. If the surface is a square (e.g. a floor), proceed to wipe with an "S" motion over the entire surface in a north-south direction, pressing firmly with the palm. If the surface is a rectangle (e.g., window well or window sill), wipe in a straight motion. Attempt to remove all visible dust from the surface.

7. Fold the wipe in half with the contaminated side facing inward; repeat the wipe motion in an east-west direction. Attempt to include all visible dust.

8. Fold the wipe again with the contaminated side facing inward, and insert aseptically into a centrifuge tube. If visible dust remains on the surface from the area wiped, use another wipe and insert it into the same tube.

9. Seal the tube and label it with a unique identifier.

10. Measure the surface area wiped. Record location, condition of surface, area, etc. on the field sampling form.

11. Remove glove; put all contaminated gloves for the sampled area into a container. Do not throw away gloves inside the housing unit.

12. At the conclusion of the sampling period, obtain another blank sample and label with identifier.

13. At the end of the sampling exercise, wash hands and face thoroughly with plenty of soap and water *before getting into car.*

14. Before shipping to laboratory, confirm all sample container identifiers with lab submittal sheets.

BILLING CODE 4210–33–M

SECTION VII—DATA ENTRY FORMS

Unit Inspection/Data Entry Form

Development #: _____ Development Name : _____ Building #: ____ Apartment #: _____
Street Address : _____ Inspected By : _____ Date : _____

Selection Criteria/Conditions:
EBL Child: ___ Yes or ___ No
Worst Case: ___ or Random Sample: ___
Code Citations: ___ Yes or ___ No

Reoccupied within 12 months: ___ Yes or ___ No
Housekeeping: ___ (G)ood ___ (F)air or ___ (P)oor

Living Room	Surf. Loc. Code	Sub-strate Code*	(G)ood, (F)air, (P)oor, (N)one Substrate Condition	Paint Condition	Sample Dimensions in Inches	Field Sample No.	Lab Sample No.	Notes:
Window well #1 (LR)	1				"x "			
Window sill if no well #1 (LR)	2				"x "			
Floor – Under Window (LR)	3				"x "			
Floor – Other (LR) **	4				"x "			
Kitchen								
Window well #1 (Kitchen)	5				"x "			
Window sill if no well #1 (Kitchen)	6				"x "			
Floor – Under Window (Kitchen)	7				"x "			
Floor – Other (Kitchen) **	8				"x "			
Bedrooms (1st priority is bedrooms with children.)								
Bedroom #1								
Window well #1 (BR 1)	9				"x "			
Window sill if no well #1 (BR 1)	10				"x "			
Floor – Under Window (BR 1)	11				"x "			
Floor – Other (BR 1) **	12				"x "			
Bedroom #2								
Window well #1 (BR 2)	13				"x "			
Window sill if no well #1 (BR 2)	14				"x "			
Floor – Under Window (BR 2)	15				"x "			
Floor – Other (BR 2) **	16				"x "			
Soil Samples—Bare soil preferred. Record soil samples from scattered sites only, as defined in instructions.								
Soil <3' from foundation	17							
Soil 10'–20' from foundation	18							
Soil near primary entry	19							
Soil Other (See instructions)	20							

Notes:

*Substrate Codes: 1. Wood 2. Bare Metal 3. Painted Metal 4. Marble/Synthetic Marble/Plastic Laminate 5. Brick or Block Masonry
6. Bare Concrete 7. Painted Concrete 8. Soft Vinyl Tile or Rubber 9. Ceramic or Quarry Tile 10. Terrazzo 11. Carpet

**Take "Floor – Other" sample from corner, main entry or under paint in poor condition. Indicate location in notes.

Community Space Inspection/Data Entry Form

Development #: _____ Development Name: _____ Street Address: _____
Building Number _____ and/or Name: _____
Inspected by: _____ Date : _____

Community Space #1	Surf. Loc. Code	Sub-strate Code*	(G)ood, (F)air, (P)oor, (N)one Substrate Condition	Paint Condition	Sample Dimensions In Inches	Field Sample Number	Lab Sample Number	Notes (record the use of community spaces i.e. Day Care Center, Recreation Room, Well Baby Clinic, etc.)
Waiting Area > 400 Sq.Ft. – #1	21				" x "			
Waiting Area > 400 Sq.Ft. – #2	22				" x "			
Comm.Sp.<2000'--Floor #1	23				" x "			
Comm.Sp.<2000'--Floor #2	24				" x "			
Comm.Sp.<2000'--Window #1	25				" x "			
Comm.Sp.<2000'--Window #1	26				" x "			
(Add one sample of each type for each additional 2000 sq.ft.)								
Comm.Sp>2000'--Floor #1	27				" x "			
Comm.Sp>2000'--Floor #2	28				" x "			
Comm.Sp>2000'--Window #1	29				" x "			
Comm.Sp>2000'--Window #2	30				" x "			
Community Space #2								
Comm.Sp.<2000'--Floor #1	31				" x "			
Comm.Sp.<2000'--Floor #2	32				" x "			
Comm.Sp.<2000'--Window #1	33				" x "			
Comm.Sp.<2000'--Window #1	34				" x "			
(Add one sample of each type for each additional 2000 sq.ft.)								
Comm.Sp>2000'--Floor #1	35				" x "			
Comm.Sp>2000'--Floor #2	36				" x "			
Comm.Sp>2000'--Window #1	37				" x "			
Comm.Sp>2000'--Window #2	38				" x "			
Community Space #3								
Comm.Sp.<2000'--Floor #1	39				" x "			
Comm.Sp.<2000'--Floor #2	40				" x "			
Comm.Sp.<2000'--Window #1	41				" x "			
Comm.Sp.<2000'--Window #1	42				" x "			
(Add one sample of each type for each additional 2000 sq.ft.)								
Comm.Sp>2000'--Floor #1	43				" x "			
Comm.Sp>2000'--Floor #2	44				" x "			
Comm.Sp>2000'--Floor #3	45				" x "			
Comm.Sp>2000'--Floor #4	46				" x "			
Comm.Sp>2000'--Floor #5	47				" x "			
Comm.Sp>2000'--Window #1	48				" x "			
Comm.Sp>2000'--Window #2	49				" x "			
Comm.Sp>2000'--Window #3	50				" x "			
Comm.Sp>2000'--Window #4	51				" x "			
Comm.Sp>2000'--Window #5	52				" x "			

*Substrate Codes: 1. Wood 2. Bare Metal 3. Painted Metal 4. Marble/Synthetic Marble/Plastic Laminate 5. Brick or Block Masonry 6. Bare Concrete 7. Painted Concrete 8. Soft Vinyl Tile or Rubber 9. Ceramic or Quarry Tile 10. Terrazzo 11. Carpet

Corridor and Stairwell Inspection/Data Entry Form

Development #: _____ Development Name: _____ Street Address: _____
Building Number _____ and/or Name: _____
Inspected by: _____ Date: _____

Ground Floor (all building types)	Surf. Loc. Code	Sub-strate Code*	(G)ood, (F)air, (P)oor, (N)one Substrate Condition	Paint Condition	Sample Dimensions in Inches	Field Sample Number	Lab Sample Number	Notes
Corridor Floor – Ground Level – #1	53				" x "			
Corridor Floor – Ground Level – #2	54				" x "			
Corridor Window – Ground Level	55				" x "			
Stairwell Landing – Ground Level	56				" x "			
Stairwell Window – Ground Level	57				" x "			
Levels 3 – 6								
Corridor Floor – (3rd or 4th)	58				" x "			
Corridor Window – (3rd or 4th)	59				" x "			
Stairwell Landing – (3rd or 4th)	60				" x "			
Stairwell Window – (3rd or 4th)	61				" x "			
Levels 7 – 12								
Corridor Floor – (7th,8th or 9th)	62				" x "			
Corridor Window – (7th,8th, or 9th)	63				" x "			
Stairwell Landing – (7th,8th, or 9th)	64				" x "			
Stairwell Window – (7th,8th, or 9th)	65				" x "			
Levels 13 – 20								
Corridor Floor – (13th – 19th)	66				" x "			
Corridor Window – (13th – 19th)	67				" x "			
Stairwell Landing – (13th – 19th)	68				" x "			
Stairwell Window – (13th – 19th)	69				" x "			
					" x "			
Levels 21 – 30					" x "			
Corridor Floor – (21st – 29th)	70				" x "			
Corridor Window – (21st – 29th)	71				" x "			
Stairwell Landing – (21st – 29th)	72				" x "			
Stairwell Window – (21st – 29th)	73				" x "			
Levels 31 – 40								
Corridor Floor – (31st – 39th)	74				" x "			
Corridor Window – (31st – 39th)	75				" x "			
Stairwell Landing – (31st – 39th)	76				" x "			
Stairwell Window – (31st – 39th)	77				" x "			
Top Floor (All Buildings with four or more levels)								
Corridor Floor – (Top)	78				" x "			
Corridor Window – (Top)	79				" x "			
Stairwell Landing – (Top)	80				" x "			
Stairwell Window – (Top)	81				" x "			

*Substrate Codes: 1. Wood 2. Bare Metal 3. Painted Metal 4. Marble/Synthetic Marble/Plastic Laminate 5. Brick or Block Masonry 6. Bare Concrete 7. Painted Concrete 8. Soft Vinyl Tile or Rubber 9. Ceramic or Quarry Tile 10. Terrazzo 11. Carpet

Soil Sample Data Entry Form

Development #: _____ Development Name: _____
Street Address: _____ Inspected by: _____ Date: _____

Soil from playgrounds/tot lots	Surface Location Code	Field Sample Number	Lab Sample Number	Notes
Soil from play area #1	82			
Soil from play area #2	83			
Soil from play area #3	84			
Soil from play area #4	85			

Soil at curbside of highest traffic roadway accessable to children

Soil at roadway	86			

Soil samples from Building #_____, Located at (street address) _____

Soil < 3' from foundation–side #1	87			
Soil < 3' from foundation–side #2	88			
Soil < 3' from foundation–side #3	89			
Soil < 3' from foundation–side #4	90			
Soil 10'–20' from foundation–side #1	91			
Soil 10'–20' from foundation–side #2	92			

Soil samples from Building #_____, Located at (street address) _____

Soil < 3' from foundation–side #1	93			
Soil < 3' from foundation–side #2	94			
Soil < 3' from foundation–side #3	95			
Soil < 3' from foundation–side #4	96			
Soil 10'–20' from foundation–side #1	97			
Soil 10'–20' from foundation–side #2	98			

Soil samples from Building #_____, Located at (street address) _____

Soil < 3' from foundation–side #1	99			
Soil < 3' from foundation–side #2	100			
Soil < 3' from foundation–side #3	101			
Soil < 3' from foundation–side #4	102			
Soil 10'–20' from foundation–side #1	103			
Soil 10'–20' from foundation–side #2	104			

Soil samples from Building #_____, Located at (street address) _____

Soil < 3' from foundation–side #1	105			
Soil < 3' from foundation–side #2	106			
Soil < 3' from foundation–side #3	107			
Soil < 3' from foundation–side #4	108			
Soil 10'–20' from foundation–side #1	109			
Soil 10'–20' from foundation–side #2	110			

Use additional forms as needed.

Lead Based Paint Risk Assessment Inspection Report

Housing Authority Name:
Development Name:
Development No:
Risk Assesor:
Prepared By:
Report Date:

Address	Sample Date	Field Sample Number	Lab Sample Number	Surf. Loc. Code	Surface Location	Sub-strate Code	Substrate Description	Sub-strate Cond.	Selection Criteria/Conditions						Test Results
									EBL Child	Worst Case	Rand Sample	Code Cit.	Recc <3mo	House Keepg	

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Section VII: Interpretation of Results

The decision of whether to do further testing or whether to clean-up, including the correction of defective paint surfaces in all units depends on both the costs of clean-up activities verses more testing and the pattern of the results. In addition to evaluating whether dust lead levels exceed the clearance standard, one should consider by how must the levels exceed the standard.

Typically, one would expect higher dust lead levels and worse inspection reports from worst case and EBL units. If these units and those that are randomly selected all have dust lead levels below the clearance standards and any deteriorating paint does not contain lead, the housing authority can be reasonably confident that this development is likely not to be posing a lead hazard at this time. If the worst case units or components in these units exceed the clearance standards and the randomly selected units do not, the housing authority should consider further testing to identify those units requiring clean-up. If the randomly selected units exceed the clearance standard and the worst case ones do not, it indicates that the housing authority has not identified true worst case units; further testing should be considered. If all the units or components in units exceed the clearance standards, consideration should be given to the clean-up of all units without further testing.

Part IV: Recommendations to Control Lead-Based Paint Hazards

Part IV: To Be Prepared by the Risk Assessor

Recommendations to Control Lead-Based Paint Hazards

Introduction: Risk assessments are designed to determine whether lead-based paint hazards exist, and if so, provide recommendations for in-place management strategies for reducing and managing such hazards. Risk assessments also provide recommendations for managing lead-based paint hazards as these hazards relate to a housing authority's maintenance and management practices.

Instructions to the risk assessor: Risk assessments should measure and characterize as precisely as possible, the existence of lead-based paint hazards accessible to residents and workers in a particular housing development. The report to the housing authority should include recommendations for action by the housing authority to control such hazards.

When a housing authority has more than one development assessed, risk management recommendations should be broken out into: (a) Those which apply to authority-wide maintenance and management policies and practices and, (b) those which are specific to a particular development. Every assessment should evaluate what the housing authority is doing with regard to resident education and blood lead level screening, comprehensive testing, employee training, modification of maintenance practices to address lead paint hazards and where necessary, provide recommendations in these areas for changes in authority-wide policy and practices. At a particular development, the recommendations should address the adequacy of maintenance as it relates to lead-based paint, the condition of painted surfaces, and most importantly, the presence of unacceptable levels of lead. Where lead levels exceed acceptable limits, the recommendations should call for immediate action in all units and areas where children under seven and pregnant women are exposed.

Recommendations

1. Identify all interior and exterior areas where lead levels exceed standards. Specify in-place management procedures to treat these conditions.
2. Specify scope of work and scheduling for post-treatment dust sampling.
3. List all suspect paint and surfaces in fair or poor condition. What in-place management measures should be implemented? Give an estimated unit cost for proposed in-place management (use additional sheets as necessary).
4. What aspects of existing maintenance systems should be modified to address lead-based paint hazards to workers and residents?
5. What aspects of existing management systems should be modified to address lead-based paint issues?
6. Identify key housing authority management and maintenance personnel who should receive training in lead-based paint in-place management procedures. Include all personnel supervising the management and maintenance of the development.
7. Tenant education and encouraging blood testing: Provide the educational guides which describe known and suspect lead paint risks, housekeeping and cleaning procedures for reducing lead dust levels and health and dietary information?
8. Additional Risk Assessor comments:

Part V: In-Place Management Guide

A. Introduction

"In-place Management" is the term used to refer to a broad range of strategies and methods for controlling exposures and preventing poisonings from lead in paint and other media pending permanent abatement. In-place management should be an integral part of most housing authorities' overall programs for preventing lead poisoning, complimenting the other measures, described briefly below, aimed at identifying and reducing lead poisoning hazards.

Inspections are conducted on a surface-by-surface basis to determine the condition of paint on the surface. *Abatement* permanently corrects and eliminates lead-based paint hazards. Because of the high number of older dwelling units with lead-based paint, it will take years to complete the abatement process. In many cases, permanent abatement of lead paint hazards will not be done until a dwelling unit undergoes substantial or comprehensive modernization. In the meantime, housing authorities have a responsibility to protect residents and their children, and workers from lead hazards. For those painted surfaces that have not been tested, it should be assumed that the paint contains lead.

Risk Assessments are conducted to identify existing or likely lead exposures that may present poisoning hazards in units not scheduled for modernization or abatement in the near future. *In-place Management* strategies are normally instituted subsequent to (and often in response to) risk assessments and should continue until abatement is completed. The objective of in-place management is to reduce excessive exposures to lead and protect occupants from lead poisoning in units pending abatement.

B. Preventing and Reducing Exposures to Lead

Children get lead poisoning by ingesting lead. Sometimes children are poisoned by chewing on lead painted surfaces or by eating paint chips. But the most common cause of poisoning is the ingestion of dust lead through normal hand-to-mouth activities, such as thumb-sucking or mouthing toys. If a child is living in a dwelling with high levels of lead in dust on surfaces, there is a high likelihood that the child may become lead poisoned. Dust lead is invisible. It settles from the air and sticks to surfaces, where it can be picked up on children's hands and later ingested.

The fundamental objective of all in-place management strategies is to reduce levels of dust lead and lead paint chips to which a child may be exposed. In most cases, the most significant sources of lead dust are:

Deteriorating lead-based paint which is chalking, chipping, peeling, or flaking;

Lead-based paint on surfaces subject to friction or impact, such as window sashes, doors or painted floors;
Exposed soil with high levels of lead contamination.

C. In-place Management's Multiple Roles

It is important to understand that in-place management measures meet different needs in three general situations. First, in-place management measures should be instituted to clean up lead paint and dust lead hazards identified through the course of *risk assessments* (for dwelling units where full lead abatement actions are not possible in the near future). In this scenario, in-place management amounts to corrective measures—specifically designed to clean up excessive exposures of lead paint chips and dust which have been found. In addition to cleaning up chipping and peeling paint and high dust lead levels, in-place management involves taking steps to stabilize the situation to prevent continuing or future lead exposures.

Second, in-place management means preventing acceptable situations from deteriorating to create excessive lead exposures in the future. In this sense, in-place management amounts to preventive maintenance and periodic cleaning. Surfaces known or suspected to be painted with leaded paint should be monitored. If it is suspected that lead dust levels may be increasing, periodic clean-ups should be done to keep dust lead from accumulating to dangerous levels on accessible surfaces such as window sills (stools) and floors.

Third, in-place management requires that precautions be taken to avoid inadvertently disturbing lead-based paint or otherwise creating dust lead hazards in the course of other maintenance, repair or modernization work. Any work disturbing lead-based paint has the potential for generating dust lead. Obviously, the level of risk is a function of the scale of the work and the amount of dust generated, but it does not take much dust lead to poison a child or adult. All maintenance, repair or modernization work encountering paint should be carried out with attention to the potential for creating lead hazards. At a minimum, in-place management will include a rigorous clean up at the conclusion of any repair project which disturbs lead-based paint.

D. Funding Corrective Measures Under the Comprehensive Improvement Assistance Program

Section 14(a)(5) of the United States Housing Act of 1937, as amended by the Appropriations Act, provides that effective interim measures (in-place management) to reduce and contain the risks of lead-based paint poisoning recommended as a result of a professionally administered risk assessments are eligible modernization costs. In-place management includes cleaning and re-painting; education of residents, training and equipping of employees; regular monitoring of painted surfaces; and modifications to existing maintenance and management practices.

E. In-place Management Principles and Safeguards

1. Sound Maintenance Program and Practices

The success of in-place management strategies for controlling lead-based paint and dust exposures is directly affected by a housing authority's overall maintenance program and management practices. A number of the questions included in the Risk Assessment Protocol are intended to highlight weaknesses in a housing authority's maintenance and management practices—the more "NO" answers, the more serious the problem or potential problems. If the risk assessment suggests problems, housing authorities are encouraged to retain a consultant to evaluate and modify maintenance and work practices. Industrial engineers normally perform this type of consultation. An engineer familiar with public housing operations and funding mechanisms is recommended.

2. Worker Protection and Training

It is essential that all housing authority staff and others directly involved with reducing lead-based paint hazards have instruction provided by qualified trainers to make them aware of the hazards of lead, proper procedures and work practices, and the need for protective equipment and proper hygiene. Great care must be exercised to protect workers from excess lead exposures and to prevent them from taking lead dust home on their clothing or belongings which could then poison their children.

Corrective Actions. Common sense must be used in selecting the worker protection appropriate to the task at hand. Workers conducting in-place management projects to correct hazards found during risk assessments (either chipping and peeling lead-based paint or elevated lead dust levels) should wear the full protective gear recommended for abatement work in the "Interim Guidelines." This includes coveralls (preferably disposable); shoe coverings; hair coverings; gloves; safety goggles; and a properly fitted, negative-pressure half-face mask respirator with a HEPA filter.

Workers on projects to correct hazards identified through risk assessments (and other projects which could disturb lead-based paint and generate significant dust) must not eat, drink or smoke on the job; hands and face must be washed before breaks and at the end of the workday. Breaks should be taken away from the work areas. Work clothes should not be worn home. Workers should wear protective work clothes instead of street clothes or they should wear protective garments over their street clothes. Work clothes should be disposed of or laundered. If shower facilities are not available on-site or at the housing authority's maintenance shops, workers should shower and wash their hair immediately upon returning to their homes.

Preventive Maintenance and Repairs. Activities related to preventive maintenance, such as normal repainting, and routine cleaning may be carried out with lesser protection, depending on the scale of the project and the potential for exposure. At the same time, it is important that workers understand the need for proper hand washing and personal hygiene when working with painted surfaces that may contain lead.

Workers engaged in other renovation or repair projects which may encounter lead-based paint must be protected from exposures and must take the necessary precautions to control, contain and clean up lead dust. The level of protection and controls should be keyed to the scale of the project and its potential for dust generation. At one extreme, a light switch or a door handle can be replaced without great concern over lead dust generation. At another level, a kitchen renovation or window replacement project may well create tremendous exposures, tantamount to a full-scale abatement project. In any event, surrounding surfaces should be protected to capture any dust or paint chips generated during any work.

It is the responsibility of the housing authority's maintenance supervisor to assure that workers engaged in in-place management corrective actions, preventive maintenance and repair projects are properly protected. Workers engaged in in-place management activities to correct hazards identified in risk assessments should be subject to medical monitoring procedures outlined in the HUD Interim Lead-Based Paint Guidelines. Briefly, this means preplacement medical examinations, periodic medical examinations, and blood lead monitoring.

3. Protection of Residents

Corrective Action. Housing residents should not be permitted in the unit or in the vicinity of the job while corrective actions are being carried out. Residents' belongings should be protected from possible exposure to lead-based dust released during the project. In most cases in which more than a single workday is required to complete the job, it will be cost effective to permit residents to return to their dwellings each night. In these cases, a complete cleanup will be required at the end of each workday before residents are permitted to return to the space or room.

Preventive Maintenance and Repairs. In most cases, it may be possible to conduct preventive maintenance and repair projects while residents remain in their homes. Care should be exercised to keep residents and their children away from the work area and to protect their belongings from possible dust lead contamination.

4. Preparation of Work Area

For any corrective action, maintenance or repair work involving lead-based paint, it is important that steps be taken in advance of the actual work to contain lead dust and make cleanup easier. Detailed instructions are included in the following section dealing with specific hazard situations. As a general rule, plastic sheeting should be put down to prevent lead-based paint chips and dust from contaminating the ground, the dwelling unit, or resident's belongings.

5. Cleanup Procedures

Cleanup is one of the most important components of any in-place management project. Unless great care is taken to cleanup debris, paint chips and dust lead, the dwelling may be more hazardous after treatment than it was before. Dust lead is invisible, sticky and hard to clean up.

Corrective Actions. At the end of each day, dust and debris should be cleaned up and removed so as not to be further tracked around. Debris should be misted with water prior to sweeping and then placed in double 4-mil or 6-mil plastic bags. A HEPA vacuum should be used to pick up remaining dust.

At the end of a corrective action work (or repair work which generates significant amounts of dust lead), clean-up consists of a three-step process:

(a) a HEPA vacuum should be used to remove all surface dust and small debris;

(b) a wet washing should follow using TSP detergent. Care should be taken each time the cleaning mixture is exchanged to ensure that dirty water is not allowed to contaminate surfaces. The use of a two-bucket system works well: one bucket contains the phosphate/water wash and the second contains clear water for mop/rag washing. And finally,

(c) a final HEPA vacuuming.

Cleaning equipment should be cleaned before use in another dwelling. Rags and mops used for clean-up in projects involving lead-based paint and dust should not be used for other purposes.

Preventive Maintenance and Repair Projects. The intensity of the cleanup should be based on the scale of the maintenance or repair project and the amount of dust lead generated. If a repair project generates extensive dust lead, the full cleanup procedures recommended above for corrective actions should be followed. In other cases, traditional cleanup procedures can be used, with additional emphasis for dust lead. Wet mopping or wet wiping with TSP detergent should be a routine clean up procedure for projects which generate even small amounts of dust lead.

6. Disposal of Debris

It is important for housing authorities to develop a practice of minimizing waste production and preventing waste products from entering the environment. Because of the limited scope and nature of most in-place management activities, the MD 15 accumulation of hazardous waste should be minimal. Unless contaminated components are removed for replacement, waste will typically be limited to paint chips, dust containing lead, contaminated cleaning supplies, disposable cleaning equipment and clothing, plastic films used as protective coverings and/or catchments, and filter products. Certain wastes from an in-place management project, either solid or liquid, may be classified as hazardous. If so, they will have to be treated as such and handled by a licensed transporter or treatment firm. All debris from a project, whether classified as hazardous or not, must be contained and transported in such a way as to prevent the dispersal of lead-bearing dust, chips or contaminated liquid into the environment. Lead debris should never be sent to a solid waste incinerator, a disposal method that disperses lead into the air. Any lead-containing by-products should be considered as hazardous and should be disposed of in strict accordance with State and local requirements for disposal of limited quantities of lead waste.

7. Clearance Testing

Corrective Actions. After the clean-up is completed for all corrective actions, the unit or work area should be tested to assure that hazardous amounts of lead dust are not left behind.

Clearance Standard

Several states have adopted a post-abatement dust standard which has been included in the HUD Interim Guidelines. The abatement clearance standard was based on a health-based study on dust lead and modified slightly based upon experience of what is practical and possible. The standard applied to post in-place management clearance is similar. The in-place management clearance standard allows the following maximum levels of lead in dust:

Floors: 200 μg/sq.ft., Window Sills (Stools): 500 μg/sq.ft., Window Wells: 800 μg/sq.ft.

Dust Sampling and Laboratory Measurements

Persons collecting dust samples and laboratories measuring dust lead levels should be thoroughly familiar with the recommended sampling and analysis protocols for dust contained in the HUD Interim Guidelines as they are to be followed for testing in connection with in-place management.

Interpretation of Test Results

Dust readings in excess of 200 micrograms per square foot (μg/sq ft) on floors, 500 μg/sq ft on window sills/stools or 800 μg/sq ft on window wells are considered positive readings. In any housing development, if a component has one or more positive readings, the housing authority has the option of either testing *all* occurrences of the component in question, or implementing in-place management actions for *all* of the components in question. The exact nature of the actions depends upon factors such as whether or not lead-based paint is known to be present.

Repeating the Final Cleanup

Following any failure to clear the first clearance test, the housing authority should verify that the cleanup procedures followed were in conformance with the prescribed cleanup procedure. A second clearance failure probably suggests that the source of the lead may be severe enough to warrant the full abatement of lead hazards in the dwelling.

Preventive Maintenance and Repair Projects. Clearance testing is typically not indicated for preventive maintenance and repair projects unless

a substantial amounts of lead dust is generated.

8. Follow-on Monitoring

Dwelling units and public spaces covered by in-place management should be reinspected periodically to: (1) verify that previously restored surfaces remain in sound condition; (2) identify the occurrence and extent of additional painted surface failures; and, (3) check for the presence or reoccurrence of excessive dust and assess the quality of housekeeping. This could occur as a part of the annual inspection, or when a dwelling is prepared to be reoccupied.

At a minimum, walk-through visual inspections should be performed on a yearly basis by personnel who are knowledgeable about lead hazards and in-place management activities. Public spaces should also be inspected on a regular basis.

Residents should be encouraged to report cracked, peeling paint as it occurs.

9. Tenant Education. It is the responsibility of the housing authority to provide all tenants with young children an educational guide developed by HUD. This guide makes clear that parents also have an important role to play in protecting their children from lead poisoning. The guide stresses the importance of wet mopping and wet wiping to control lead dust levels. It also emphasizes the importance of washing children's hands and providing a good diet. Tenants should be encouraged to call to the attention of the housing authority any chipping or peeling paint. Finally, the housing authority should encourage tenants to have their children under age six a blood-lead test.

F. Specific In-place Management Corrective Action Strategies

1. Deteriorating Exterior Paint

Deteriorated exterior surfaces with cracked/peeling/flaking/dusting paint may be releasing lead paint chips and dust lead. The resulting dust lead frequently finds its way into dwellings.

Recommended Action

Deteriorated exterior surfaces are to be repaired to obtain a smooth surface which can be repainted. This will require corrective work that will require the removal of loose paint and dust, cleaning the surface, and resealing the surface by painting. The purpose is to restore the integrity of the paint film on the exterior surface and control further deterioration of the paint.

For the removal of loose paint or painted material, "wet scraping" is to be employed. This means that both the painted surface and the scraping tool are to be kept wet with water during the scraping process to minimize the release of lead dust and the dispersal of lead paint chips.

Because of the possibility of releasing and dispersing hazardous debris and dust during the corrective work, residents should not be permitted in the vicinity of the work during repair activities. Access should be restricted until thorough cleanup activities have been completed following the work. (It may be necessary to fence or cordon-off the immediate work area to prevent unauthorized access, or if possible, identify an alternate building entrance for residents' use during the work.)

Sequence of Steps

a. Planning the Corrective Action: Residents are expected to have access to their residences during the period of exterior corrective work. Work activities that require more than one day for completion should be scheduled so that each day's work (including cleanup) can be accomplished within the housing authority's normal work-day.

b. Area Protection: Protect all area(s) immediately adjacent to and below the work with a 6-mil polyethylene film to protect the ground and shrubbery, and to retain wet debris and dust that will be created during the surface treatment. This covering should extend out horizontally from the base of the wall for a distance that is equal to half the height of the wall surface being treated. (Though reasonably tough, avoid unnecessary traffic over 6-mil film to reduce chance of puncturing. In addition, if the ground surface is rough it may be necessary to double the film to minimize the occurrence of punctures.) Joints or tears in the polyethylene film should be sealed with duct tape. Any tears that occur in coverings during the work should be repaired immediately.

c. Surface Preparation: The building surfaces to be corrected should be moistened with a fine spray of water from a garden sprayer or atomizing bottle. Care should be taken to assure that electricity is shut off to exterior outlets and switches in the immediate vicinity of anticipated work before any moisture is applied to surfaces.

d. Wet Scraping: Loose, peeling/flaking material shall be removed from the surface(s) by wet scraping the surface(s) to obtain a smooth cleanable surface that can be repainted. The scraping tool should have a soft, pliable blade of plastic or rubber that will not damage or gouge the material. The blade should be rigid enough, however, to remove rough, jagged edges of the broken paint surface. The resulting surface should be free of jagged, rough edges, or snags that would interfere with the paint or coating's ability to bridge any remaining gaps. The rubber blade squeegee that is used for cleaning automobile windshields may be satisfactory. (One style has a fabric covered foam or sponge on the back of the blade for wetting the surface.) Commercially available plastic scraping pads that are for use with liquid or chemical paint strippers may also be effective for wet-scraping and the smoothing of roughened surfaces.

During the course of wet scraping, the debris should be gathered as with a wet/dry vacuum as often as necessary to minimize its being carried away by the wind. At a minimum, this should be done at the end of each work day.

It may be necessary to spray or re-wet fallen debris to prevent its being scattered or blown off the protective covering.

Workers should be cautioned about the hazards of walking on polyethylene film which is extremely slippery when it is wet. Care should be taken to prevent the tracking of debris off the protective covering. Workers should clean or remove shoe coverings before leaving the area of the work.

e. Cleaning Surfaces: Following wet-scraping, the surface(s) should be cleaned with a damp sponge to remove small particles and dust. It may be necessary to "degloss" the surface before resealing. Cleaning with tri-sodium phosphate (TSP) followed by a clean water wash will degloss as well as clean. The surface should be permitted to dry thoroughly in preparation for repainting or resealing.

f. Surface Sealing: The "clean" dry surface(s) are to be sealed with an enamel paint or coating material that results in a smooth, cleanable surface. The paint or coating should be applied in accordance with the manufacturer's instructions.

g. Removal of Protective Coverings: At conclusion of the corrective work, (or at the end of the work-day on multi-day activities when the work area cannot be secured from access by residents) the protective polyethylene coverings should be carefully removed, retaining any remaining debris/dust. The coverings and debris should be disposed of in accordance with local disposal practices/regulations. Previously used plastic covering material should not be used again within dwellings. (Cleaning of the equipment, including ladders and scaffolding while on the protective covering may simplify the collection of debris and liquid waste.)

h. Disposal of Waste and Debris: All retained liquid waste should be poured through a filter cloth to remove paint chips and other debris prior to disposal. Filtered materials should be placed in plastic bags and stored in a secure area pending disposal in accordance with State and/or local requirements.

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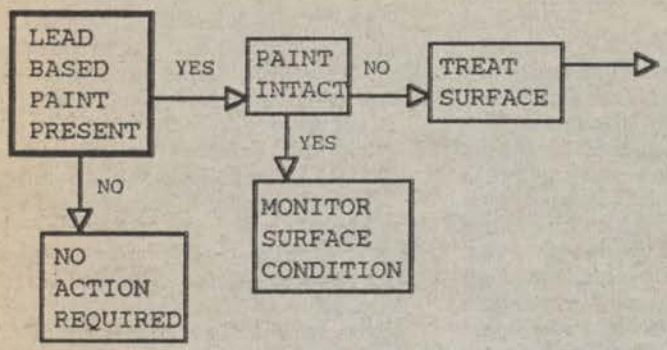
BUILDING EXTERIORS



1. Protect Surrounding Surfaces and Ground
2. Remove Loose Material From Surface
3. Clean Surface
4. Reseal Surface
5. Remove Debris/Protective Coverings
6. Final Cleanup
7. Monitor Surface Condition

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2. Deteriorating Interior Lead-Based Paint

The procedures for treating deteriorating interior paint are similar to those discussed above for exterior paint. However, greater attention must be given to controlling, testing, and cleaning up dust lead as well as protecting residents' belongings.

Sequence of Steps

If the area of deteriorated interior paint to be treated exceeds one square foot, or it is likely that dust will be created during the work, the procedures described below shall be followed:

a. Planning the Corrective Action: Because residents are expected to return to their residences for the night, corrective work that requires more than one day for completion should be scheduled so that each day's work, and subsequent cleanup, can be carried out within the housing authority's standard work-day. Each room or space in which corrective action occurs is to be cleaned at the end of the work-day so that residents can return for the night.

b. Protection of Residents and Personal Belongings: Residents (and to the extent practicable furnishings/ personal belongings) are required to be removed from the room or space in which actual corrective work is being conducted. Furnishings and personal belongings that remain in the room or space are to be protected with duct-tape sealed polyethylene covering. All floors in the work areas must be covered, all ductwork and registers, and all cabinets, drawers, etc., must be sealed. The work area should be sealed from the rest of the residence. Residents' entry to the room/space/ work area is to be prevented until cleanup has been completed at the conclusion of the work or, at the end of the work-day, which ever occurs sooner.

c. Area Protection: Cover all area(s) immediately adjacent to the work with a 6-mil polyethylene film to contain the wet debris and dust that may be dislodged during the corrective work. All joints and edges of the polyethylene covering should be sealed with duct tape.

d. Surface Preparation: The surfaces to be corrected should be moistened (but not flushed) with water from a sprayer or atomizing spray bottle. (Care should be taken to assure that electricity to outlets, switches and appliances in the immediate vicinity of the work is turned off before any moisture is introduced to surfaces.)

e. Wet Scraping: Loose, peeling/ flaking material should be removed from the surface(s) by wet scraping the surface(s) with the objective of obtaining a smooth cleanable surface. The scraping tool should have a soft, pliable blade of plastic or rubber that will not gouge the surface. It should be rigid enough, however, to remove the rough, jagged edges of paint. The rubber blade squeegee that is used for cleaning automobile windshields may be satisfactory. (One style has a fabric covered rubber sponge on the back of the blade for introducing water to the surface.) Commercially available plastic scraping pads for use with liquid or wet chemical paint strippers may also be effective for wet scraping roughened surfaces.

During the wet scraping, the debris should be collected frequently with a wet/dry vacuum to minimize tracking or spreading the removed material throughout the room or space.

f. Cleaning Surfaces: The wet-scraped surface(s) should be cleaned with a damp sponge and permitted to dry in preparation for repainting or resealing, which should be done in accordance with the coating/paint manufacturer's instructions. Surface preparation often requires "deglossing" as well as cleaning. In that case, cleaning with TSP followed by a clean water wash will degloss as well as clean.

g. Surface Sealing: The "wet-scraped," dried surface(s) are to be sealed with a paint or coating that yields a smooth surface—one from which future dust can be easily cleaned with a damp sponge or cloth, without causing further damage to the surface. The sealed surface should be free of jagged, rough edges, or snags.

h. Remove Protective Coverings: At conclusion of the corrective work, or at the end of the work-day on multi-day activities, protective polyethylene coverings should be carefully removed, containing any debris/dust, bagged in plastic, and stored in a secure place outside the dwelling for eventual disposal in accordance with local disposal practices/regulations. Polyethylene coverings should not be reused in dwelling units.

i. Cleanup: A final clean-up of the corrected surfaces and surrounding work area, room or space is to be conducted at the end of each work day with a HEPA vacuum, a high phosphate wash, followed by a final HEPA vacuuming. See separate discussion in this guide under "Clean-up Procedures".

j. Dust Testing: Dust testing is to be done in accordance with the protocols listed in the HUD Interim Guidelines and summarized in this guide under "Clearance Testing".

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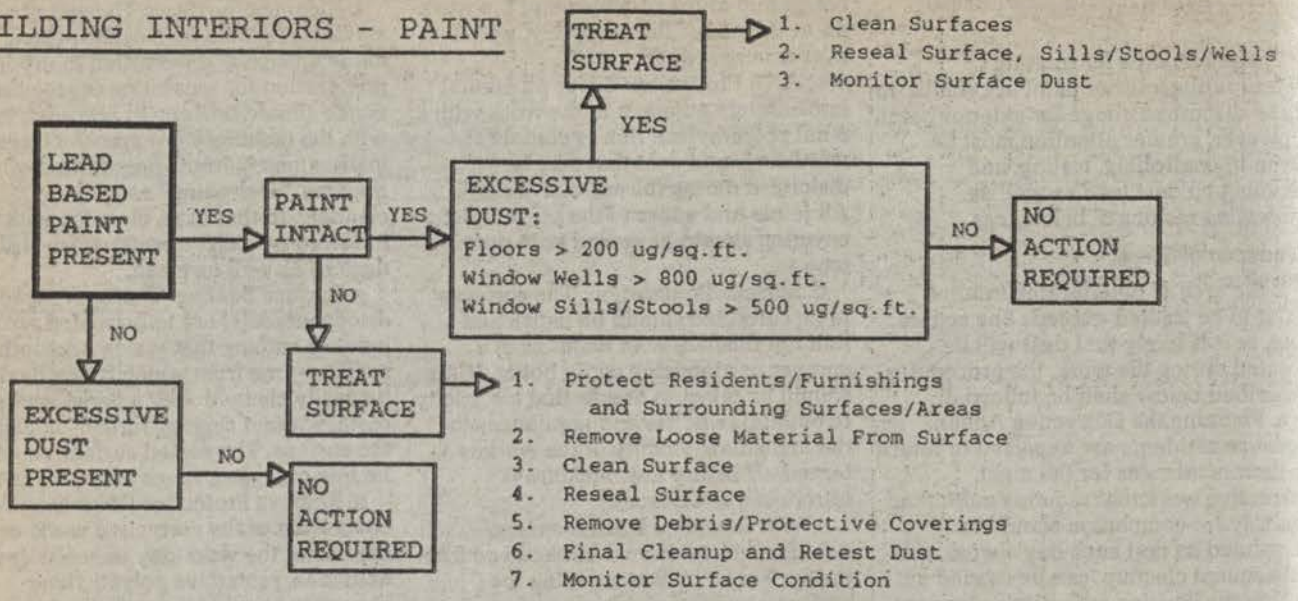
BUILDING INTERIORS - PAINT



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3. Excessive Lead Dust in Units Without Deteriorating Paint

Ingesting and inhaling dust lead is the most common way that children are exposed to lead. Dust lead is created as lead-based paint "chalks" or ages; it is created at friction points through opening and closing of windows with frames painted with lead-based paint. Soil in urban areas is often tainted with lead from years of use of leaded gasoline and from industrial processes such as smelting. Much of the dust lead in a dwelling is tracked in on shoes or blows in through open windows. It is estimated that 85% of the dust in a dwelling is tracked in from outdoors.

If dust lead levels above the prescribed clearance levels persist within the dwelling, the housing authority should implement measures such as:

a. On a regular basis, wash down exterior walkways, stairs and landings where dust lead may accumulate.

b. Locate door mats at building and dwelling entrances to reduce the tracking of dust lead into the unit on shoes.

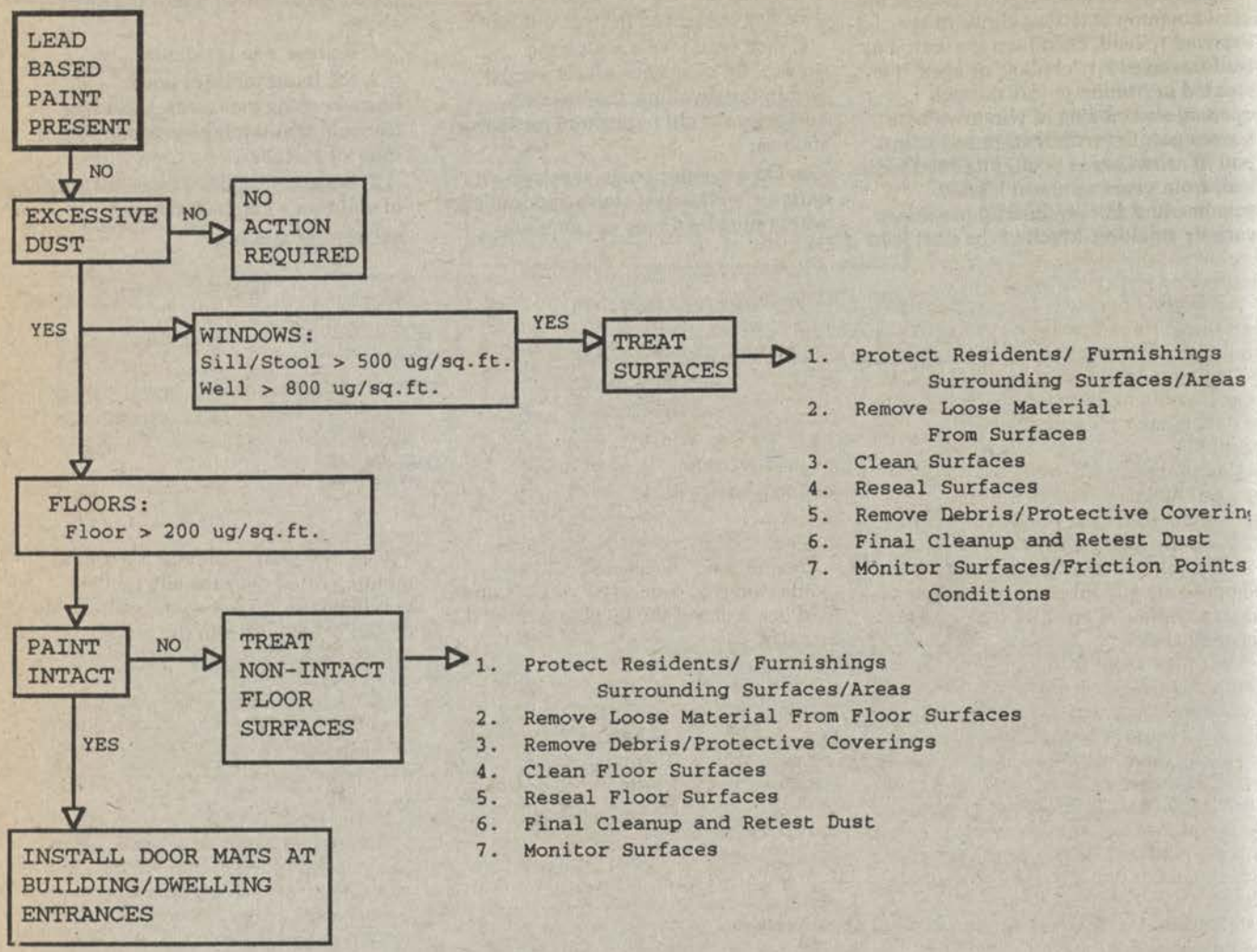
c. Reiterate to residents:

1. the importance of good housekeeping measures, including frequent wet-wiping/wet-mopping of interior surfaces.

2. the importance of frequent washing of children's hands and toys.

BILLING CODE 4210-33-M

BUILDING INTERIORS - DUST



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Glossary

Abatement—any set of measures designed to permanently correct and eliminate lead-based paint hazards. Abatement includes the *removal* of lead-based paint and lead-contaminated dust, the *permanent containment* or *encapsulation* of lead-based paint, the *replacement* of lead-painted surfaces or fixtures, and the removal or covering of lead contaminated soil. Abatement also includes all preparation, clean-up, worker protection, disposal, and post-abatement clearance testing activities associated with such measures.

Accessible Surface—an interior or exterior surface that is accessible for a young child to mouth or chew.

Common Areas—a room or area that is accessible to all tenants in a building or development (e.g., hallway, vestibule).

Comprehensive Testing—the systematic inspection of a housing development for the presence of lead-based paint using x-ray fluorescence (XRF) equipment to screen building components and laboratory analysis of paint samples where XRF readings are inconclusive.

Defective Paint Surface—paint which is cracking, flaking, chipping or peeling from a building component (e.g., window sill, door or door frame, etc.).

Family Development—a development assisted under the U.S. Housing Act of 1937 (other than section 8 or 17 of the Act) which is not an elderly project. For this purpose, an elderly project is one which was designated for occupancy by the elderly at its inception (and has retained that character) or, although not so designated, for which the PHA gives preference in tenant selection (with Department of Housing and Urban Development approval for all units in the development to elderly families. A building within a mixed-use development which meets these qualifications shall, for purposes of this document, be excluded from any family development.

High Efficiency Particle Air (HEPA) Filter—a filter capable of filtering out particles of 0.3 microns or greater from a body of air at 99.97% efficiency or greater.

In-Place Management—a process in which a housing authority will take to reduce excessive exposures to lead and protect occupants from lead poisoning in units pending abatement.

Inspection—determines the condition of paint on a surface and the condition of the painted surface.

Lead-Based Paint Hazard—paint or other surface coatings that contain lead in excess of limits established by the Department of Housing and Urban Development.

Lead in Dust—interior house surface dust that contains an area mass concentration of lead which may pose a threat of adverse health effects in pregnant women or young children.

Lead in Soil—accessible soil on residential real property that contains lead in excess of the level determined to be safe by the appropriate Federal agency.

Multi-Unit Structures—residential buildings/dwelling units within a development which have a similar style of construction and similar paint history. Factors that contribute to similar paint history are common ownership from time of construction; similar occupancy patterns since construction; similar configuration and construction materials; and are conterminous (having a common boundary).

Random Testing—a surface-by-surface investigation of intact and non-intact interior and exterior painted surfaces in selected housing units for lead-based paint using an approved x-ray fluorescence analyzer or comparable approved sampling or testing technique.

Risk Assessment—an on-site investigation, including sampling in housing constructed prior to 1978, to determine the existence and extent of lead-based paint hazards and physical conditions that could potentially affect the integrity of painted surfaces.

Scattered Site Housing—residential buildings/dwelling units which have different styles of construction and unknown and unmanaged paint histories. Factors that contribute to unknown and unmanaged paint histories are multiple ownerships from time of construction; multiple occupancy patterns since construction; different configurations and construction materials; and are not conterminous (having no common boundary).

Visual Inspection—a surface-by-surface investigation of intact and non-intact interior and exterior painted surfaces.

Window Sill—the building component forming the lower side (bottom) of a window opening.

Window Stool—the flat horizontal molding fitted over the sill, on the window interior, between jambs, which comes in contact with the bottom rail of the (lower) operating sash, and the window sill.

Window Well—the horizontal area of the window sill that comes in contact with the bottom rail of the operating sash (when closed), and the window stool.

Worst Case—units, common areas, and exteriors which are suspected to contain lead-based paint. Worst case units, common areas, and exteriors surfaces are usually in poor physical condition and poorly maintained. In this document, worst case also means units, common areas, and exteriors which are randomly selected for testing and inspection.

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BILLING CODE 4210-33-M

federal register

Monday
June 29, 1992

Part III

Department of Transportation

Federal Aviation Administration

14 CFR Part 25

Vibration, Buffet and Aeroelastic Stability Requirements for Transport Category Airplanes; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. 26007; Amdt. No. 25-77]

RIN: 2120-AD36

Vibration, Buffet and Aeroelastic Stability Requirements for Transport Category Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revises the airworthiness standards of the Federal Aviation Regulations (FAR) for type certification of transport category airplanes concerning vibration, buffet, flutter and divergence. It clarifies the requirement to consider flutter and divergence when treating certain damage and failure conditions required by other sections of the FAR and adjusts the safety margins related to aeroelastic stability to make them more appropriate for the conditions to which they apply. These changes are made to provide consistency with other sections of the FAR and to take into account advances in technology and the evolution of the design of transport airplanes.

EFFECTIVE DATE: July 29, 1992.

FOR FURTHER INFORMATION CONTACT: James Haynes, Airframe and Propulsion Branch (ANM-112), Transport Airplane Directorate, Aircraft Certification Service, FAA, 1601 Lind Avenue SW., Renton, Washington 98055-4056, telephone (206) 227-2131.

SUPPLEMENTARY INFORMATION:

Background

The term "aeroelastic" is applied to an important class of phenomena which involves the mutual interaction between the inertial, aerodynamic, and elastic forces in a structure. These forces can interact to give rise to a variety of aeroelastic phenomena ranging from transient or dynamic responses as a result of external forces (vibration or buffeting) to aeroelastic instabilities (flutter or divergence). The importance distinction between response and instability phenomena is that instabilities are self-excited, that is, they can exist even in smooth air in the absence of any external forces. A slight perturbation of the structure at or above the critical airspeed is all that is needed to initiate the unstable condition which then may be maintained or grow to destructive proportions in the absence of any external forces.

Few aeroelastic phenomena fit neatly into classifications where exact definitions can be considered to apply without qualification. The following definitions should be considered to apply to classical aeroelastic phenomena and used with a certain amount of judgment since not even the experts in the field would agree completely on any set of definitions.

1. *Vibration.* An oscillation of the structure or of a control surface resulting from an independent external excitation.

2. *Buffeting.* A random oscillation of the structure resulting from unsteady aerodynamic forces, usually associated with separated airflow.

3. *Flutter.* The unstable self-excited structural oscillation at a definite frequency where energy is extracted from the airstream by the motion of the structure. The deformation and motion of the structure result in forces on the structure that tend to maintain or augment the motion. The displacement modes associated with flutter instabilities are sometimes called "flutter modes."

4. *Whirl Flutter.* Flutter in which the aerodynamic and gyroscopic forces associated with rotations and displacements in the plane of a propeller or large turbofan play an important role. The displacement modes associated with whirl flutter are sometimes called "whirl modes."

5. *Divergence.* A static instability at a speed where the aerodynamic forces resulting from the deformation of the structure exceed the elastic restoring forces resulting from the same deformation.

6. *Control Reversal.* A condition generally occurring at higher speeds in which the intended effects of displacing a given component of the control system are completely overcome by the aeroelastic effects of structural deformation, resulting in reversed command.

7. *Deformation Instability.* The loss of airplane stability and control as a result of the aeroelastic effects of structural deformation.

Many of the above terms have been used in the airworthiness regulations and associated advisory material for many years and there is no intent to redefine these phenomena or require consideration of new phenomena by this amendment.

This amendment is based on Notice of Proposed Rulemaking (NPRM) No. 89-24 which was published in the **Federal Register** on September 12, 1989, (54 FR 37768). The notice proposed to revise and update the requirements concerning vibration, buffet, and aeroelastic stability to make these requirements more consistent with modern transport airplane designs. It was proposed to augment the list of failures, malfunctions and adverse conditions by including additional damage and failure conditions that have been added to other sections of the FAR. In addition, the FAA proposed in the NPRM to revise the safety margins for aeroelastic stability to make them more appropriate for the conditions to whch they applied and more consistent with advances in technology of transport airplane design. Additional proposals were to reorganize certain requirements so that structural load requirements, flight requirements, and aeroelastic stability requirements would be set forth in the proper sections and subparts of part 25.

In the 1940's, when the first transport airplane flutter and divergence requirements were introduced, a safety margin was established by requiring that the airplane be designed to be free from flutter and divergence at an airspeed 20 percent greater than the maximum design dive speed. Flutter analyses, using the available theoretical methods of that time, were used to show compliance. The 20 percent margin was intended to account for the inaccuracy in the analytical prediction of the flutter speed, as established by those early methods, and to provide for production and service variations. The ability of the industry to substantiate freedom from flutter and other aeroelastic instability phenomena has been continually improving. Current analytical methods employ finite element solutions with advanced unsteady aerodynamic theories and can accommodate airplanes of complex configurations. In addition, model testing, ground vibration testing and flight flutter testing techniques have all undergone significant improvements. Complete airplane experimental modal analyses are now commonplace. Furthermore, the cost of these analytical methods and testing techniques has been kept reasonable by the advances in computer technology. Because of these improvements, the FAA proposed in Notice 89-24 to reduce the 20 percent margin to 15 percent.

Part 25 has been continually upgraded with failure and damage requirements in other sections. Among these requirements are the criteria for complete loss of all engines in § 25.671, the empennage bird strike criteria of § 25.631, and the discrete source damage criteria of § 25.571(e). These sections generally require "no catastrophic failure" or "safe flight and landing" or similar provisions in the event of

specified failure conditions. These regulations have been interpreted to require flutter substantiation if the failure or damage event could have a significant effect on the flutter modes. In Notice 89–24 the FAA proposed to amend § 25.629 to directly reference many of these requirements to make it clear that freedom from aeroelastic instability is required to be demonstrated for these additional failure and damage conditions.

The design margin for the fail-safe design conditions has been the margin between design cruise speed, V_C/M_C and design dive speed, V_D/M_D. This margin originally was 25 percent, but has since been reduced by the incorporation of an upset criterion to establish V_D/M_D (§ 25.335(b)). This criterion generally results in a margin of between 15 and 20 percent on modern conventional transport airplanes at altitudes where V_C is not limited by Mach number. One recent airplane design incorporating a speed protection system would have resulted in even lower margins had the FAA not issued a special condition requiring that this margin be at least 15 percent. In Notice 89–24 the FAA proposed that the fail-safe margin not be allowed to be lower than 15 percent for the fail-safe design conditions. However, further adjustments in the margin were proposed for altitudes where design speeds are limited by Mach number.

Discussion of Comments

Comments were received from foreign and domestic airplane manufacturers, foreign airworthiness authorities, airplane operator and manufacturer trade groups, pilots associations and private individuals. The majority of commenters express support for the proposals, especially in regard to the attempt to modernize the requirements and adjust the safety margins so that they are more appropriate for modern transport airplane designs and take into consideration modern technology. As a result of the comments, several changes were made to the proposals to improve their organization and clarity.

One commenter suggests that the references to § 25.1309 and the use of the phrase "extremely improbable" in the proposed rule be accompanied with a numerical probability value. The phrase "extremely improbable" was contained in the previous rule and was not a new proposal in the NPRM. Acceptable methods of compliance are described in FAA Advisory Circular 1309–1A, System Design and Analysis. However, the FAA appreciates the commenter's desire for specific compliance criteria and is currently assessing the need for additional advisory material to treat failure analyses as they relate to flutter. If additional guidance is found necessary, it will be included in the appropriate advisory circular.

The same commenter suggests that the requirement concerning oscillatory failures in the proposed § 25.305(f) was more restrictive than the current requirement. The commenter believes that the requirement for the resulting loads to be considered as limit load conditions is an increase in the current requirements and not consistent with conditions related to failures which should be treated as ultimate conditions.

The FAA disagrees. Limit loads (the maximum loads to be expected in service) are required to be sustained without permanent deformation of the structure. Ultimate loads are loads that are required to be sustained without failure, although permanent deformation is allowed. Section 25.301(a) states that all loads prescribed in the FAR are limit loads unless otherwise specified. Only loads from certain failure conditions, as specified by the regulations, are allowed to be treated as ultimate load conditions. These are generally load conditions that are independent of the failure event and not likely to be achieved during the time the failure exists. However, the oscillatory load condition concerns loads that result directly from the failure itself and involve a repetition of these loads at a rapid frequency. These loads have historically been treated as limit loads, and this amendment merely clarifies the requirement that this failure condition is to be treated as a limit load condition.

Several commenters object to the provisions relating to damage tolerance contained in paragraphs § 25.629(d)(2)(i) and (ii) of the NPRM, which were intended to provide a means of establishing the necessity for considering single failures of engine structures, engine mounts, and supports for external bodies, propellers or rotating machinery. The commenters believe that it is inappropriate to establish damage tolerance criteria in § 25.629 that are different and could be more restrictive than § 25.571 which specifically covers damage tolerance evaluation. The FAA agrees, and the paragraphs have been revised to provide relief from the single failure requirement for these structures if an analysis under § 25.571(b) and 25.571(e) indicate that consideration of a single failure is unnecessary for meeting those requirements. For the purposes of organizational clarity, this revised requirement is consolidated with § 25.629(d)(3)(ix) of the proposal, which also referred to § 25.571, and set forth in § 25.629(d)(8) of this amendment. Further consolidation of the proposed §§ 25.629(d)(3)(viii) and 25.629(d)(3)(ix) resulted in § 25.629(d)(9) of this amendment.

Several commenters suggest that a specific minimum damping value be provided in the rule to define a proper margin of damping for aeroelastic modes; however, no suggestions for specific criteria were provided. The current Advisory Circular (AC) 25.629–1, Flutter Substantiation of Transport Airplanes, provides guidance relative to establishing a proper margin of damping which depends on the analytical methodology and on the general character of the aeroelastic mode. It is not practicable to establish a regulatory requirement for a specific damping margin that would be appropriate in all cases.

The majority of commenters express support for the change in the flutter substantiation speed margin from 1.2 V_D to 1.15 V_D. However, several commenters are concerned that the modern analytical methods, which they believed to be the basis for making this reduction, are not mandated by regulation nor necessarily practiced by all manufacturers. As discussed previously, the reduction was not proposed as a result of improvements in analytical methodology alone; but is also attributable to improved testing methods and improvements in other related requirements. Furthermore, an analytical speed margin alone does not in itself provide a guarantee of freedom from flutter regardless of its actual value. This is because many modes can become critical well within the flight envelope by only small changes in other parameters. An extensive parametric investigation to establish sensitivities and to develop a proper margin with respect to all important parameters (altitude, air forces, rigidity, mass balance, etc.) is an essential part of any aeroelastic investigation. This is a required certification practice for transport airplanes with respect to flutter substantiation as explained in AC 25.629–1.

Furthermore, the analytical speed margins required by the previous regulation were inconsistent with the accuracy associated with predicting flutter for the various conditions. For modern transport category airplanes, the 20 percent margin was required for the nominal (unfailed) airplane at the lower altitudes and these are the most reliable conditions to analyze. However, the analytical speed margins for the

nominal airplane at altitudes where operating speed is limited by Mach number, and for failure cases at any altitude, were permitted to be much less than 20 percent even though aeroelastic instabilities for these conditions are less reliably predicted. This amendment establishes a more consistent speed margin for all conditions including failure cases.

Another commenter suggests that the change in the speed margin should not be allowed as long as the FAA accepts the traditional "strip theory" method of flutter analysis and does not mandate the more recently developed "doublet-lattice" method which the commenter asserts to be more reliable. Since all analytical methods have deficiencies with respect to certain configurations, the FAA prefers not to mandate specific theoretical methods by regulation. In many cases, more than one analytical method may be necessary in order to overcome deficiencies that a particular method might have with specific configurations. It is necessary that any analytical methodology used for flutter substantiation be validated for the specific application and be shown to reliably predict the aeroelastic characteristics of the airplane. This validation is normally based on correlation with actual test data such as wind tunnel data, ground vibration test data, and flight test results. Guidance pertaining to validation of analytical methodology is contained in AC 25.629–1.

One commenter states that the requirement to consider mismanagement of fuel conditions is considerably beyond the normal design practices. The FAA disagrees since consideration of fuel mismanagement conditions has been a standard practice for many years, and, in fact, although not explicitly listed, has been considered necessary in showing compliance with § 25.629. The new rule makes this condition explicit by adding it to the list of failure and adverse conditions so that it cannot be overlooked.

Another commenter suggests that the requirement for the treatment of whirl flutter should include a specific requirement to consider the influence of a non-uniform airstream on propellers installed in a pusher configuration. The general objective language, as proposed, is sufficient for requiring these considerations. These analytical details will be considered for inclusion in the appropriate advisory circular.

The same commenter also points out that, in addition to pitch and yaw rigidity, the translational rigidity of propeller axes can also be important for certain configurations. The FAA agrees and paragraph (d)(5) has been revised to delete the words "pitch and yaw" so that it addresses "rigidity" in general.

One commenter suggests that the consideration of single failures in flutter damper systems should not be required if they can be shown to be extremely improbable. The FAA disagrees; this single failure requirement already existed in the previous regulation and was intended to provide a single failure requirement for passive flutter dampers, equivalent to that already provided in § 25.671(c)(1) for flight control systems. Although flutter dampers are typically mechanical components, similar in design and criticality to mechanical control system components, they may not necessarily be considered part of the flight control system. Therefore, it is necessary to provide a separate single failure requirement for them in § 25.629(d).

One additional change was to delete a statement in the proposal that provided for substantiation of the failure and damage events by showing that losses in rigidity or changes in frequency, mode shape, or damping are within the parameter investigations shown to be satisfactory in the flutter and divergence investigations. While there is no intent to eliminate this approach as an acceptable means of compliance, the FAA considers it unnecessary to prescribe it in the regulations. This method of compliance is specifically provided for in AC 25.629–1.

Regulatory Evaluation

This section summarizes the full regulatory evaluation prepared by the FAA that provides more detailed estimates of the economic consequences of this regulatory action. This summary and the full evaluation quantify, to the extent practicable, estimated costs to the private sector, consumers, Federal, State and local governments, as well as anticipated benefits.

Executive Order 12291, dated February 17, 1981, directs Federal agencies to promulgate new regulations or modify existing regulations only if potential benefits to society for each regulatory change outweigh potential costs. The order also requires the preparation of a Regulatory Impact Analysis of all "major" rules except those responding to emergency situations or other narrowly defined exigencies. A "major" rule is one that is likely to result in an annual increase in consumer costs, a significant adverse effect on the economy of $100 million or more, a major increase in consumer costs, a significant adverse effect on competition, or is highly controversial.

The FAA has determined that this rule is not "major" as defined in the executive order, therefore a full regulatory analysis, that includes the identification and evaluation of cost reducing alternatives to this rule, has not been prepared. Instead, the agency has prepared a more concise document termed a regulatory evaluation that analyzes only this rule without identifying alternatives. In addition to a summary of the regulatory evaluation, this section also contains a regulatory flexibility determination required by the Regulatory Flexibility Act of 1980 (Pub. L. 96–354) and an international trade impact assessment. If more detailed economic information is desired than is contained in this summary, the reader is referred to the full regulatory evaluation in the docket.

Economic Evaluation

This rule applies to manufacturers of airplanes built to part 25 standards. It will have no impact, positive or negative, on the level of safety associated with the operation of transport category airplanes. It will provide a limited, but undetermined, amount of cost savings to manufacturers by reducing the design margin for airspeed. Another benefit of the rule is that it will update, reorganize and clarify the intent of various sections within part 25 concerning vibration, buffet, flutter and divergence. Since no increase in cost is associated with this rule, and since there are benefits of the rule associated with cost reduction to transport airplane manufacturers, and improved organization, consistency, and clarity within part 25, this rule is cost-effective.

The following table summarizes each of the changes and briefly assesses their economic impact.

Changes	Economic impact
Creates § 25.305(e). Incorporates the design requirements of § 25.251(a) into § 25.305. Clarifies that freedom from vibration need not be demonstrated under failure conditions.	Clarifies intent of rule and improves organization of regulations. No economic impact.

Changes	Economic impact
Reorganizes contents of § 25.629 regarding the evaluation of loads into a new (and more pertinent) § 25.305(f).	Clarifies intent of the rule. No economic impact.
Changes the title of § 25.629.	Editorial change. No economic impact.
Differences between propellers or similar rotating devices that contribute "significant dynamic forces," and those that do not.	Clarifies intent of the rule. No economic impact.
Reduces the design margin for airspeed from 20 percent to 15 percent to reflect modern technology and aircraft.	Relieves manufacturers of need to meet unnecessary design capabilities. Provides a reduction of costs.
Provides a minimum speed margin or floor for aeroelastic stability analysis	Provides a fixed minimum safety margin equivalent to the minimum applied to conventional designs in order to facilitate the use of new technology equipment such as speed protection systems. Cost saving can result from the use of the new technology equipment. Otherwise, no economic impact.
Adds mismanagement of fuel and bird strike incidence to the failure, malfunction, damage and adverse conditions of § 25.626(d).	Consolidates existing requirements. No economic impact.
Requires aeroelastic analysis of any combination of feathered propellers	Resolves inconsistencies in regulations. No economic impact.
Permits the use of damage tolerance requirements of § 25.571(b) for evaluating structures, thus eliminating current confusion.	Clarifies the meaning of the regulation. No economic impact.
Requires full scale flight flutter tests for new designs	Clarifies the means of demonstrating compliance with existing requirements.

International Trade Impact Assessment

This rule will have little or no impact on the trade opportunities for both U.S. firms doing business in foreign countries and foreign firms doing business in the United States. If foreign nations do not adopt U.S. standards, their manufacturers may be at a disadvantage in the U.S. market. However, the impact is expected to be slight. If foreign manufacturers do adopt U.S. standards, U.S. manufacturers selling abroad could continue to design to foreign standards which would also meet U.S. standards.

Regulatory Flexibility Determination

Under the criteria of the Regulatory Flexibility Act of 1980 and FAA Order 2100.14A, (*Regulatory Flexibility Criteria and Guidance*), the FAA has determined that the rule will not have a significant economic impact on a substantial number of small entities. Only U.S. manufacturers of transport category airplanes will be affected, and none of the transport category airplane manufacturers in the United States meets the criteria of a small entity.

Federalism Implications

The regulations adopted herein do not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that such a regulation does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Conclusion

Because the requirement to consider flutter and divergence when testing certain damage and failure conditions required by the FAR is not expected to result in a substantial cost, the FAA has determined that this final rule is not major as defined in Executive Order 12291. This final rule is considered to be significant as defined in Department of Transportation Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). In addition, since there are no small entities affected by this rulemaking, it is certified, under the criteria of the Regulatory Flexibility Act, that this final rule, at promulgation, will not have a significant economic impact, positive or negative, on a substantial number of small entities. A copy of the final regulatory evaluation prepared for this project may be examined in the public docket or obtained from the person identified under the caption "For Further Information Contact."

List of Subjects in 14 CFR Part 25

Air transportation, Aircraft, Aviation safety, Safety.

The Amendment

Accordingly, 14 CFR part 25 of the Federal Aviation Regulations (FAR) is amended as follows:

PART 25—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY AIRPLANES

1. The authority citation for part 25 continues to read as follows:

Authority: 49 U.S.C. 1344, 1354(a), 1355, 1421, 1423, 1424, 1425, 1428, 1429, 1430, 49 U.S.C. 106(g) and 49 CFR 1.47(a).

2. By amending § 25.251 by revising paragraphs (a) and (b) to read as follows:

§ 25.251 Vibration and buffeting.

(a) The airplane must be demonstrated in flight to be free from any vibration and buffeting that would prevent continued safe flight in any likely operating condition.

(b) Each part of the airplane must be demonstrated in flight to be free from excessive vibration under any appropriate speed and power conditions up to V_{DF}/M_{DF}. The maximum speeds shown must be used in establishing the operating limitations of the airplane in accordance with § 25.1505.

* * * * *

3. By amending § 25.305 by adding new paragraphs (e) and (f) to read as follows:

§ 25.305 Strength and deformation.

* * * * *

(e) The airplane must be designed to withstand any vibration and buffeting that might occur in any likely operating condition up to V_D/M_D, including stall and probable inadvertent excursions beyond the boundaries of the buffet onset envelope. This must be shown by analysis, flight tests, or other tests found necessary by the Administrator.

(f) Unless shown to be extremely improbable, the airplane must be designed to withstand any forced structural vibration resulting from any failure, malfunction or adverse condition in the flight control system. These must be considered limit loads and must be investigated at airspeeds up to V_C/M_C.

4. By revising § 25.629 to read as follows:

§ 25.629 Aeroelastic stability requirements.

(a) *General.* The aeroelastic stability evaluations required under this section include flutter, divergence, control reversal and any undue loss of stability and control as a result of structural deformation. The aeroelastic evaluation must include whirl modes associated with any propeller or rotating device that contributes significant dynamic forces. Compliance with this section must be shown by analyses, wind tunnel tests, ground vibration tests, flight tests, or other means found necessary by the Administrator.

(b) *Aeroelastic stability envelopes.* The airplane must be designed to be free

from aeroelastic instability for all configurations and design conditions within the aeroelastic stability envelopes as follows:

(1) For normal conditions without failures, malfunctions, or adverse conditions, all combinations of altitudes and speeds encompassed by the V_D/M_D versus altitude envelope enlarged at all points by an increase of 15 percent in equivalent airspeed at both constant Mach number and constant altitude. In addition, a proper margin of stability must exist at all speeds up to V_D/M_D and, there must be no large and rapid reduction in stability as V_D/M_D is approached. The enlarged envelope may be limited to Mach 1.0 when M_D is less than 1.0 at all design altitudes, and

(2) For the conditions described in § 25.629(d) below, for all approved altitudes, any airspeed up to the greater airspeed defined by;

(i) The V_D/M_D envelope determined by § 25.335(b); or,

(ii) An altitude-airspeed envelope defined by a 15 percent increase in equivalent airspeed above V_C at constant altitude, from sea level to the altitude of the intersection of 1.15 V_C with the extension of the constant cruise Mach number line, M_C, then a linear variation in equivalent airspeed to $M_C + .05$ at the altitude of the lowest V_C/M_C intersection; then, at higher altitudes, up to the maximum flight altitude, the boundary defined by a .05 Mach increase in M_C at constant altitude.

(c) *Balance weights.* If concentrated balance weights are used, their effectiveness and strength, including supporting structure, must be substantiated.

(d) *Failures, malfunctions, and adverse conditions.* The failures, malfunctions, and adverse conditions which must be considered in showing compliance with this section are:

(1) Any critical fuel loading conditions, not shown to be extremely improbable, which may result from mismanagement of fuel.

(2) Any single failure in any flutter damper system.

(3) For airplanes not approved for operation in icing conditions, the maximum likely ice accumulation expected as a result of an inadvertent encounter.

(4) Failure of any single element of the structure supporting any engine, independently mounted propeller shaft, large auxiliary power unit, or large externally mounted aerodynamic body (such as an external fuel tank).

(5) For airplanes with engines that have propellers or large rotating devices capable of significant dynamic forces, any single failure of the engine structure that would reduce the rigidity of the rotational axis.

(6) The absence of aerodynamic or gyroscopic forces resulting from the most adverse combination of feathered propellers or other rotating devices capable of significant dynamic forces. In addition, the effect of a single feathered propeller or rotating device must be coupled with the failures of paragraphs (d)(4) and (d)(5) of this section.

(7) Any single propeller or rotating device capable of significant dynamic forces rotating at the highest likely overspeed.

(8) Any damage or failure condition, required or selected for investigation by § 25.571. The single structural failures described in paragraphs (d)(4) and (d)(5) of this section need not be considered in showing compliance with this section if:

(i) The structural element could not fail due to discrete source damage resulting from the conditions described in § 25.571(e), and

(ii) A damage tolerance investigation in accordance with § 25.571(b) shows that the maximum extent of damage assumed for the purpose of residual strength evaluation does not involve complete failure of the structural element.

(9) Any damage, failure, or malfunction considered under §§ 25.631, 25.671, 25.672, and 25.1309.

(10) Any other combination of failures, malfunctions, or adverse conditions not shown to be extremely improbable.

(e) *Flight flutter testing.* Full scale flight flutter tests at speeds up to V_{DF}/M_{DF} must be conducted for new type designs and for modifications to a type design unless the modifications have been shown to have an insignificant effect on the aeroelastic stability. These tests must demonstrate that the airplane has a proper margin of damping at all speeds up to V_{DF}/M_{DF}, and that there is no large and rapid reduction in damping as V_{DF}/M_{DF}, is approached. If a failure, malfunction, or adverse condition is simulated during flight test in showing compliance with paragraph (d) of this section, the maximum speed investigated need not exceed V_{FC}/M_{FC} if it is shown, by correlation of the flight test data with other test data or analyses, that the airplane is free from any aeroelastic instability at all speeds within the altitude-airspeed envelope described in paragraph (b)(2) of this section.

Issued in Washington, DC, on June 22, 1992.

Barry Lambert Harris,

Acting Administrator.

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Part IV

Department of Transportation

Federal Aviation Administration

14 CFR Part 147

Revision of Aviation Maintenance Technician Schools Regulations; Final Rule

DEPARTMENT OF TRANSPORTATION

14 CFR Part 147

[Docket No. 26331; Amendment No. 147-5]

RIN 2120-AD09

Revision of Aviation Maintenance Technician Schools Regulations

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment updates the regulations for certificating Aviation Maintenance Technician Schools (AMTS) to accommodate the increasing demand for maintenance technicians with higher levels of skill and knowledge. The amendment modifies portions of the rule that have been open to subjective judgments by the FAA and the AMTS industry and modifies the portions that specify the skill and knowledge requirements for an aviation maintenance technician. This amendment revises the core curriculum to ensure that AMTS graduates will be prepared to function in the current technological environment.

EFFECTIVE DATE: September 28, 1992.

FOR FURTHER INFORMATION CONTACT: Leslie K. Vipond, AFS-302, Aircraft Maintenance Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267-3269.

SUPPLEMENTARY INFORMATION:

Background

Part 147 (14 CFR part 147) was adopted in 1970 and, except for some minor changes, has not been revised since that time. The civil aviation environment in which the aviation maintenance technician operates has changed significantly since that regulation was adopted. Thus, a person could graduate from a part 147-approved AMTS and not be fully prepared to function in the current aviation environment.

In keeping with FAA policy to review and upgrade regulations to ensure that they are consistent with changes in the aviation environment, the FAA contacted the airlines, AMTS, repair stations, and mechanic organizations to consider holding joint industry/FAA public listening sessions to discuss proposed changes. The FAA held a series of three public listening sessions in 1988 and received significant input from the aviation industry. The first session was held in Atlanta, Georgia, on August 29-30, 1988; the second was held in Oklahoma City, Oklahoma, on September 8-9, 1988; and the third was held in San Jose, California, on September 15-16, 1988. The agenda of the listening sessions was based on questions from the AMTS and the airline industry. Information obtained during the listening sessions formed a basis for an outline of certain proposed changes for the rule. After the sessions, the FAA determined it was appropriate to consider modifications of the portions of the rule that govern AMTS curriculum, administration, and operating rule requirements. The FAA then developed and issued a notice of proposed rulemaking (NPRM) to amend part 147 (55 FR 37416, September 11, 1990, Docket No. 26331, Notice No. 90-22).

This NPRM addressed and included proposals from both industry and the FAA. The notice was comprehensive and contained proposed revisions to nearly every section of part 147. All interested persons were given an opportunity to comment on the proposals and due consideration has been given to all comments received.

Discussion of Comments

The FAA received 41 comments in response to the NPRM. These comments have been reviewed and considered by the FAA in the promulgation of this final rule. Twelve large industry groups, representing over 10,000 aviation businesses, corporations, AMTS, and individuals, enthusiastically support the NPRM. These groups, including the Aviation Technician Education Council, Air Transport Association of America, National Business Aircraft Association, and Professional Aviation Maintenance Association, participated in the public listening sessions and helped to identify important areas of reform early in this process. Essentially, their comments consist of general statements favoring all aspects of the NPRM, with some minor suggestions. The remaining commenters consist of individuals who perform aircraft maintenance or schools involved in training. The comments are summarized and discussed below on a section-by-section basis. Only those sections commented upon are discussed.

Section 147.5(a) Application and Issue

The proposal to amend § 147.5(a), by removing the requirement of listing the subjects to be taught by each instructor and the requirement that applicants submit photographs of the facilities, received no adverse comments.

One commenter suggests that the section of the rule requiring that specialized instructors be listed by name be changed so they may be listed simply as "staff" to reduce administrative costs. No additional clarifying information was submitted concerning this suggestion, nor did the commenter provide any economic data to support the comment. Accordingly, § 147.5(a) is adopted as proposed.

Section 147.15 Space Requirements

This section of the proposal removes the requirement for separate classroom and shop space, thus, providing schools with more flexibility in use of classroom and laboratory areas.

One commenter recommends that § 147.15(f) retain the words "assemble and test." No additional clarifying information was submitted concerning this suggestion.

The FAA has determined that the words "assemble and test" have historically created confusion and misinterpretation of the intent of the regulation. For example, the space requirement for assembly and testing has often been interpreted to mean a separate "clean room" for engine assembly and testing following overhaul. The requirement to assemble and test in the AMTS environment is intended or necessary to train mechanics to a required standard, not to return a component to service. Therefore, in the AMTS, the space for disassembly, service, and inspection could be the same space used to assemble and test. Accordingly, § 145.15 is adopted as proposed.

Section 147.17 Instructional Equipment Requirements

The proposed revision to this section requires that the applicant's required instructional aircraft be fitted with navigation and communication (NAVCOM) equipment instead of the current requirement for a two-way radio.

Questions have been raised by two commenters concerning who would determine which type of NAVCOM equipment would be appropriate. The FAA's current procedure for determining the acceptability of radio equipment in AMTS remains unchanged. The language here only upgrades the two-way communications radio requirement to include an additional navigational equipment component.

The FAA is of the opinion that this new requirement should not be a cause of confusion as the revision is only a minor extension of the current rule. Accordingly, §§ 147.17 is adopted as proposed.

Section 147.19 Material, Tool, and Shop Equipment Requirements

The proposed revision to this section would eliminate the requirement that the AMTS must have an adequate supply of special tools and miscellaneous tools, and would require instead that the AMTS have an adequate supply of only those special tools that might be needed for such projects as engine assembly and calibration.

One commenter suggests that a list of minimum special tools be added and that there also be a clarification of who must provide handtools.

The FAA has determined that an additional explanation is not appropriate for regulations. Having a regulatory requirement for a list of minimum special tools would not serve any purpose since the quantity and type of special tools required would, in effect, be specified by the number of students being taught and the requirements of the instruction being received. As revised, §§ 147.19 provides more options to students and schools since the school is not required to provide handtools by regulation; then, either the student must provide them or the school may elect to supply them. The changes to § 147.19 are adopted as proposed.

Section 147.21 General Curriculum Requirements

The proposed rule changes several elements of this section. First, an amendment to § 147.21(b) would permit schools, at their option, to use a 50-minute instruction unit hour, the standard at most educational institutions.

One commenter opposes this change stating that the change would reduce classroom time, while three commenters recommend that it be adopted. Another commenter suggests that the FAA require that the hours offered by a school be clarified. No additional information was submitted concerning this suggestion.

The FAA also proposed to remove § 147.21(e). This would thereby give schools greater flexibility in allocating student time between practical and theory-based instruction. This would eliminate the current requirement that 50 percent of the total curriculum time be spent in shop or laboratory classes.

Six commenters are opposed to this change, preferring that the 50 percent shop time requirement be kept. Three other commenters indicate that this requirement should not be applicable to general aviation. No additional clarifying information was submitted concerning these three comments. The suggestion was put forward by one commenter that there be a specific split of 60 percent lecture and 40 percent laboratory.

The majority of the schools holding AMTS certificates under Part 147 are public institutions such as 2- and 4-year colleges. Almost without exception, the instruction unit for all subjects and disciplines at these institutions is 50-minutes in duration. This practice is currently in place at a number of privately owned part 147 MATS as well. During the public listening sessions preceding the NPRM, nearly every participant was in favor of defining a minimum 50-minute instruction time period. Based on the foregoing, the FAA has determined that no degradation in safety would result and that a 50-minute unit would be appropriate.

With respect to the removal of the existing requirement for 50 percent of the students instructional time to be in shop, most of the public listening session participants and the FAA agree that this requirement is obsolescent. Because of the complexity of modern aircraft systems, the FAA has determined that more classroom instruction time should be spent learning the cognitive skills associated with understanding the theoretical fundamentals of these complex systems, as opposed to requiring instruction in curricula structured to emphasize the development of certain traditional "hands-on" tactile skills, such as woodworking and heat treating.

In any case, the requirement for the development of manipulative and shop skills are retained at levels 2 or 3, because subject teaching levels require the appropriate amount of shop or laboratory instruction time. The changes to § 147.21 are adopted as proposed.

Section 147.23 Instructor Requirements

The proposed rule would permit schools to use specialized personnel who are not FAA-certificated mechanics to teach a wider variety of fundamental technical subjects. The proposal would provide the AMTS with a much larger pool of appropriately skilled and educated teachers from which to draw. The intent is to enable the AMTS to enhance the quality of education through the use of specialized instructors in certain general subjects without negatively affecting the quality of the instruction directly related to aviation maintenance subjects.

Several commenters suggest developing FAA standards for the specialized instructors and expanding the list of subjects that specialized instructors may teach. The development of standards for specialized instructors would be tantamount to requiring them to be certificated and is beyond the scope of this rulemaking. In addition, the commenters did not offer any rationale for expanding the list of subjects that the specialized instructors could teach. Accordingly, the FAA does not agree with these commenters and those proposals are not accepted.

Two commenters advocate dropping the term "similar subjects" from the list of subjects that specialized instructors may teach in order to avoid confusion. The FAA does not agree, because no evidence was put forward to suggest that the phrase "similar subjects" regarding instructor requirements in the current regulations does not provide sufficient instructor competence. In addition, by dropping that term, the list of specialized instructor privileges could grow to include virtually all non-aircraft maintenance related subjects. This may not provide appropriate instruction and could result in surveillance difficulties. The FAA has determined that the term "similar subjects" should be retained; this term adds clarity to the rule by defining the limitations of specialized instructors. Accordingly, § 147.23 is adopted as proposed.

Section 147.31 Attendance and Enrollment, Tests, and Credit for Prior Instruction or Experience

This section, under the proposal, would be amended to replace references to the term "mechanic" with the term "aviation maintenance technician."

Two commenters oppose this change without explanation. The FAA disagrees with the commenters; the occupation descriptor "aviation maintenance technician" is consistent with not only the title of the rule itself but is congruent with the current terminology of the aviation industry and the International Civil Aviation Organization.

Several commenters believe that a student should be eligible to receive credit for the subject of mathematics regardless of how that knowledge is gained. The FAA has not proposed changing the prerequisite in the current rule that verification and possibly testing are required before a school may credit a student for previous instruction or experience. This requirement applies to all subjects, including mathematics. The commenters offered no evidence that the informal study of mathematics is as effective and comprehensive as formal instruction. Thus, § 147.31 is adopted as proposed.

Section 147.35(a) Transcripts and Graduation Certificates

The proposed amendment to this section would make grade transcripts available to the student "upon request" to relieve a school of the burden of issuing unrequested or undesired transcripts.

One commenter opposes this change without explanation. The FAA does not agree with the commenter and has determined that the current requirement imposes an unneeded administrative burden on a certificated AMTS. The proposed change would relieve this burden without any adverse impact on safety. Accordingly, the amendment to § 147.35(a) is adopted as proposed.

Section 147.36 Maintenance of Instructor Requirements

Modifications to this section are similar to those proposed for § 147.23. These changes would permit the expanded use of instructors who are not certificated mechanics to teach certain subjects in the general curriculum.

As in § 147.23, several comments were received suggesting that the term "similar subjects" be dropped because it is vague and causes confusion. One respondent points out that the phrase "basis hydraulics" should be "basic hydraulics," while another indicates that the word "each" should be "teach."

The comments received regarding "similar subjects" for this section are congruent with those received in § 147.23, and the FAA has determined that the term "similar subjects" should be retained since it is adequately clear and provides the flexibility needed. The phrase "basis hydraulics" was a misspelling and will now read "basic hydraulics," and the word "each" was a misspelling and will now read "teach." With the exception of these changes, § 147.36 is adopted as proposed.

Section 147.38 Maintenance of Curriculum Requirements

No comments were received on the proposed changes to this section; therefore, § 147.38 is adopted as proposed.

Appendix A Curriculum Requirements

The proposed rule would add a paragraph (c) to this appendix to facilitate the use by AMTS of currently accepted educational materials and equipment, such as computers, calculators, and audiovisual equipment.

Part of the proposal relating to appendix A teaching levels (part 147, appendix A, section (b)(3)(ii)), replaces the term "accomplish" with "simulate." The proposal for this section will now read "Development of sufficient manipulative skills to simulate return to service."

A commenter states dissatisfaction with the proposed term "simulate" when training to level 3. The FAA disagrees with the comment, because while much of the training equipment in typical Part 147 AMTS may no longer be in airworthy condition; i.e., engines, generators, etc., sufficient manipulative skills may be developed and sufficient knowledge may be acquired on the training equipment to simulate the accomplishment of return to service even if the training equipment itself is not airworthy.

Another commenter proposed a change to appendix A, section (a), *Definitions*. The commenter suggests that section (a)(5) should read: " " 'Repair' means to correct a defective condition *by acceptable means*." The FAA disagrees. The commenter's suggestion could cause confusion in the definition of repair since the purpose of a part 147 school is to provide instruction in FAA acceptable methods and practices for all tasks. The FAA does not choose to adopt the comment "by acceptable means." Accordingly, the FAA adopts part 147, appendix A, as proposed.

Appendix B General Curriculum Subjects

The proposal adds both new material and changes teaching levels in certain subjects. The purpose of these changes would be to increase students' exposure to technical information and special skill requirements that are more relevant to the current aviation industry needs and to reduce required instruction time in certain obsolescent areas.

Several commenters suggest that the subject area "basic physics" be renamed as "basic science." The FAA disagrees. The subject of "basic science," which might include science subjects such as biology, zoology, etc., could be far less relevant than the more rigorously defined subject "basic physics." Basic physics encompasses the more applicable principles of fluids, air, heat, and mechanical forces which are more appropriate to the studies of AMT students.

Subject Item 30J

Two commenters suggest changing the phrase "develop principles" in part 147, appendix B, Subject Item 30J, Basic Physics, to "understand principles." The FAA agrees with the commenters. A requirement to develop physical principles would impose unreasonable and excessive technical requirements on AMTS students. The section has been revised to read: "Understand and use the principles of simple machines * * *"

Another commenter advocates inclusion of a requirement in this section concerning the use of typical aircraft maintenance records to emphasize mechanic responsibility. This was echoed by a commenter who suggests expanding the teaching section on maintenance forms, Subject Item 28, and requiring a student to develop the description of work performed as specified in §§ 43.9 and 43.11 and not just describe various discrepancies. The FAA agrees with both commenters. Appendix B, Subject Item 28, has been modified by adding the words: "Write descriptions of work performed including aircraft discrepancies and corrective actions using typical aircraft maintenance records."

Another commenter proposes that the teaching level for dye penetrant non-destructive inspection (NDI) be raised from level 2 to level 3. The FAA disagrees with this suggestion. All NDI training, including the use of dye penetrants, to a teaching level 3 competence clearly requires significant training beyond that which could reasonably be expected of an AMTS, given the time constraints imposed by other training requirements. Therefore, the FAA has not adopted this suggestion.

Several commenters recommend keeping heat treating processes at level 2 rather than dropping them to level 1. The FAA does not agree with those commenters. The complexities of today's aircraft structures require that greater emphasis be placed on fundamental and theoretical understanding of metallurgical materials and processes developed at teaching level 1 rather than requiring AMTS training to focus on the hands-on skills developed at teaching level 2. Note that in the final rule the word "inspect" is added at the beginning of the subject area description of subject item 23. This term emphasizes that a requirement to inspect for corrosion necessarily and logically precedes the identification, removal, and treatment of affected areas. Appendix B, therefore, is adopted in accordance with the changes to the NPRM as discussed.

Appendix C Airframe Curriculum Subjects

The proposed amendment to this appendix would add a subject area on composite aircraft structural inspection, testing, and repair as well as delete and reduce certain obsolescent material in some subject areas such as wood, dope, and fabric. Curriculum offerings would

be increased in certain current and newly emerging areas of technology and some teaching levels would increase.

Subject Item 50

Five commenters believe that the requirement in Subject Item 50 for teaching the troubleshooting and repair of constant speed drive (CSD) and integrated speed drive (ISD) generators at teaching level 3 is too high. They argue that the teaching of these systems at level 3 would present a significant economic burden to the majority of AMTS since this would require all schools to purchase at least one operating model of each type of generator at a considerable cost. Further, they argue that a satisfactory understanding of these systems may be simulated by alternative teaching methods that do not require the actual hardware.

After assessment of the alternatives, the FAA agrees with the comments and finds that the economic burden of acquiring this hardware is not justified. Following further study, the FAA agrees with the commenters that there are alternate methods available to teach those systems to a satisfactory level. Further, the original teaching level of 3 for ISD and CSD generating systems is unjustified with respect to the needs of industry, and it is more appropriate at a level 1. However, the needs of the aviation industry dictate that the teaching level should remain at level 3 for alternating and direct current generating systems. As a result of further evaluation, the FAA has determined that this subject item will be subdivided into two parts and will read as follows:

Item 50(a), teaching level 3, Inspect, check, troubleshoot, service, and repair alternating current and direct current electrical systems.

Item 50(b), teaching level 1, Inspect, check, and troubleshoot constant speed and integrated speed drive generators.

Accordingly, this section is adopted as revised by the foregoing discussion.

Subject Item 39

One commenter suggests removing the requirements in Subject Item 39 for instruction in "OMEGA" navigation systems since the system is primarily military and not in common use. With respect to this area, another suggestion was made to remove "OMEGA" and add "LORAN and Radar Beacon Transponders." The FAA agrees with the commenters, and this requirement has been modified in the final rule.

Subject Item 20

Another commenter suggests that the FAA consider modifying Item 20, to reduce the arc welding and soldering requirement from teaching level 2 to level 1. The FAA does not agree with this commenter. None of the participants at the FAA's public listening sessions identified any need for change in this area, and the commenter presented no rationale for the proposal.

Subject Item 8

Another commenter suggests expanding Subject Item 8 from "apply finishing materials" to include generic types of materials, such as polyurethane and other current types of material. While this suggestion has merit, expansion of this section is not necessary. A properly developed and administered curriculum with a teaching level of 2 would include instruction in aircraft painting using the current types of generic preparation, priming, and finishing materials.

Subject Item 33

Two commenters note that the teaching level for item 33, heating pressurization, etc., should be raised to level 2 since system components such as air cycle machines require frequent maintenance.

The FAA disagrees. The majority of the fault corrections involve either troubleshooting of circuitry or electromechanical devices. Appropriate analytical instruction can be delivered at the proposed teaching level 1 where basic principles and troubleshooting can be taught to the required knowledge level. In this case, the economic burden to the AMTS of acquiring the training equipment necessary to teach to a level 2 is not justified.

A single commenter believes that Subject Item 33 should include a warning about oxygen "danger aspects." The FAA has determined that this is not necessary since this subject is required to be taught at level 2 in Subject Item 35, and the oxygen system cautions and warnings subject must be taught as part of the curriculum.

Subject Item 51

One commenter believes that the language in Subject Item 51 describing "takeoff warning" systems should be changed to the more encompassing "configuration warning." The FAA agrees that this proposed language is more appropriate for the system description, and that phrase will be changed accordingly.

Subject Item 5

One commenter objects to Subject Item 5 being reduced to level 1. Subject Item 5 teaches the inspection, test, and repair of fabric and fiberglass cloth, a relatively obsolescent subject. The commenter gave no justification for the objection; however, much discussion in the FAA public listening sessions centered on the need to consider reduction of teaching levels in certain obsolescent subjects in order to liberate more instruction time to focus on subjects more relevant to today's needs.

The FAA has determined that sufficient knowledge may be gained on this subject at a teaching level 1 so that a student can be adequately trained to make appropriate repair judgments. Therefore, appendix C is revised as proposed.

Appendix D Powerplant Curriculum Subjects

Under the proposal, new subject material would be added to this appendix to increase the level of technical knowledge and skill required in the powerplant curriculum. Certain teaching levels would be changed to reflect the current and future technician training needs. Another major change to Appendix B would require that each certificated AMTS have an operating jet turbine engine for instructional purposes. This proposal is implicit in the hardware requirements for Subject Item 6, to "Inspect, check, service, * * * turbine engines and turbine engine installations."

Subject Item 19

Five commenters suggested that Item 19, "Inspect, service * * * turbine engine electrical and pneumatic starting systems," be divided into two sections, with electrical turbine engine starting systems being taught separately at level 3 and pneumatic turbine engine starting systems being taught at level 1. The reasons for the proposed division are primarily economic since teaching pneumatic starting systems at level 3 would require actual hardware. Pneumatic starting systems represent older technology and are becoming obsolete, so a reduction in teaching level could enable AMTS instruction to focus more productively on current turbine engine starting systems.

Another commenter recommends that the word "starting" be inserted after the word "electrical" to clearly identify the system being taught as a starting system. The FAA agrees that sufficient basis exists to incorporate these suggestions. Accordingly, Subject Item 19 is modified and adopted as follows:

a. Item 19(a), Inspect * * * troubleshoot * * * turbine engine electrical starting systems (at teaching level 3).

b. Item 19(b), Inspect * * * and troubleshoot turbine engine pneumatic starting systems (at teaching level 1).

Subject Item 20

The proposed revisions to this subject item would eliminate training in obsolete subjects; one such subject is Subject Item 20, requiring instruction in powerplant water injection systems. This requirement was discussed at length during the part 147 listening sessions. The FAA agrees that this technology is currently obsolete and applicable to relatively few aircraft, and instruction time could be more productively focused elsewhere. Two commenters suggest that this subject be retained at teaching level 1; however, sufficient justification was not presented, and the FAA does not agree with that suggestion. Therefore, this subject item is adopted as proposed.

Subject Item 6

During the listening sessions, both the FAA and most of the industry participants recognized and recommended that adequate training on turbine engine inspection, checking, and repair requires a turbine engine that is operational, and all operational training on this particular subject item, Item 6, should be at teaching level 3.

One commenter to the NPRM suggests that training on this item would be too complex at teaching level 3 and should be reduced to level 2. No economic justification or other basis was stated for the proposal to reduce the teaching level. The FAA disagrees. Accordingly, Subject Item 6 is adopted as proposed.

Subject Item 32

Under the current rule, this subject item is dedicated solely to the teaching of engine exhaust systems to teaching level 3. In the NPRM, it was proposed that this subject item be expanded to include the closely related subject of engine thrust reverser systems and related components. It was proposed and intended that this new subject be taught only to level 1. However, it was never intended that the current instruction in the repair and troubleshooting of engine exhaust systems be relaxed to teaching level 1. A relaxation of the teaching standard for engine exhaust systems generally would not be in the public interest, since improperly repaired exhaust systems could create a serious safety hazard. To make it absolutely clear that the current standard for this subject item is to be maintained, in the final rule the teaching of the repair of engine exhaust systems is separated from engine thrust reverser systems. The former is to continue to be taught to level 3, while the latter need only be taught to level 1. This subject item is subdivided into 32.a. (which employs the wording of current element 32) and 32.b., respectively.

Subject Item 40

Two commenters indicate that the newly added subject, Subject Item 40, Unducted Fans, be removed and that the subject material be incorporated into turbojet subject items. The FAA has determined that by placing the subject item, Unducted Fans, apart as a separate subject item, the subject may be taught more comprehensively when those systems enter service. Further, as that particular technology evolves, a separate instruction unit will provide some of the future AMTS curriculum growth potential that many commenters consider essential. Accordingly, appendix D, is adopted as proposed in the NPRM.

Miscellaneous Comments

A number of comments of a very general nature were received. The majority of these comments primarily address the proposed upgrading of sections of the curriculum specifying airframe systems such as communication and navigation systems, cabin atmosphere control systems, and similar subject items. These comments generally characterize the proposals as being too "airline oriented and watering down general aviation subjects." Some commenters warn against decreasing teaching levels in certain subjects more appropriate to general aviation; these include wood, dope, fabric, and radial engines.

The FAA will continue to assess demographic data, to determine where the bulk of AMTS graduates are employed, i.e., what knowledge, skills, and abilities are required of them. Currently, demographic information indicates that approximately 80 to 85 percent of AMTS graduates that are employed in the aviation industry are in airline or airline-related occupations. Further, long-range statistical demographic surveys indicate that aircraft maintenance technician migration into airline employment is likely to increase over the next decade. In view of these trends, the FAA is of the opinion that, for reasons of safety and commerce, AMTS would be able to maximize productivity if required curriculum provides an increased focus on the instruction necessary to increase student training in the knowledge, skills, and abilities required by the airline industry. On the other hand, the FAA has determined that the proposed regulatory changes will not result in a negative effect on AMTS training for general aviation since much of the same procedures and equipment required by the airline industry are already incorporated into many general aviation aircraft. Therefore, based on these considerations, those comments do not reflect the broader needs of the aviation community.

A number of commenters express concern that the scope of the revised regulation would require that all AMTS be recertificated by the FAA. The FAA is of the opinion that no AMTS will be required to be recertificated to conform to the rule. The FAA will continue to conduct routine conformity surveillance inspections to assure compliance with this rule.

Paperwork Reduction Act

Information collection requirements in the amendments to part 147 have previously been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511) and have been assigned OMB Control Number 2120–0040.

Regulatory Evaluation Summary

Executive Order 12291, dated February 17, 1981, directs Federal agencies to promulgate new regulations or modify existing regulations only if potential benefits to society for each regulatory change outweigh potential costs. The order also requires the preparation of a Regulatory Impact Analysis of all "major" rules except those responding to emergency situations or other narrowly defined exigencies. A "major" rule is one that is likely to result in an annual effect on the economy of $100 million or more, a major increase in consumer costs, or a significant adverse effect on competition. The FAA has determined that this rule is not "major" as defined in the executive order, therefore a full regulatory analysis, that includes the identification and evaluation of cost reducing alternatives to this rule, has not been prepared. A more concise final regulatory evaluation has been prepared, however, which includes consideration of the economic consequences of this regulation. This regulatory evaluation is included in the docket.

Comments

The FAA received no comments directly discussing its regulatory

evaluation. However, five commenters argue that the proposed change to Appendix C (Airframe Curriculum Subjects), to teach repair of constant speed drive and integrated speed drive generators at level 3 (highest level), would impose too high a cost on AMTS. This amendment would require schools to purchase at least one operating model of each type of generator. The initial Regulatory Evaluation did not consider this cost. However, the FAA agrees with the commenters. The final rule does not include this proposed change, thus eliminating this cost.

Cost Impacts

The NPRM estimated a cost to AMTS related to the purchase of new equipment of $6,300 for about 30 schools under § 147.17. The FAA now estimates that all AMTS have the equipment to fulfill the new requirements under this section. This rule will add a cost burden to AMTS because of changes in appendixes B and D. Amendments to appendix B will require a higher teaching level in some fundamental general subjects, such as mathematics and physics. It lowers teaching levels in some obsolescent subjects, and it requires additional knowledge and skill levels on advanced subjects. The requirement includes teaching electronic repair of solid-state electronic equipment. The FAA estimates that 49, about one-fourth of the 196 certified AMTS, need to purchase new electronic equipment at an average cost of $5,270 per school. This results in a total cost of approximately $258,000.

In appendix D, the rule changes related to powerplant service and repair will require about one-sixth of AMTS to buy and mount a turbine engine; and it will cause about one-sixth of the schools to mount the turbine it owns. A fully mounted turbine engine costs about $74,000; setting up a turbine engine on an appropriate stand costs an average of $2,600. The cost of this section of the rule is approximately $2.5 million.

Cost Savings

Several amendments to part 147 will give AMTS a cost reduction. The amendment to § 147.5 permits a more efficient use of instructors because the rule will not require schools to predesignate which class a particular instructor must teach. This change is estimated to save the industry $1.1 million over the decade.

Changes to § 147.15 allow schools to use their existing classroom and laboratory areas more efficiently. While not affecting existing facilities, new applicants will need less space due to this amendment. Over the next 10 years, this should save new applicants a total of $1.3 million.

The amendment to § 147.21 permits schools to use a standard 50-minute instruction unit. This convention conforms with class time practice used at most educational institutions. Also, this section allows AMTS to teach material at a level equal to or higher than that designated in appendix A of part 147. Over the decade this savings amounts to $7.5 million for the industry by reducing administrative time requirements.

Amendments to §§ 147.23 and 147.36 permit schools to expand the use of instructors not certified as a mechanic to teach additional material in the general curriculum. This change will allow schools to use specialized personnel to teach math, physics, basic electricity, and similar subjects. The FAA determined that each school could replace one full-time-equivalent certificated mechanic instructor with an instructor not certified as a mechanic. With difference in annual salary of $7,400 between the two, the rule should save schools $16.8 million over the decade.

The amendment to § 147.31 gives AMTS more flexibility in crediting and testing, thus relieving some administrative burden. The rule permits schools to administer tests after a student completes a unit of instruction and give credit for the general curriculum courses previously taken at that school. Much of the amendment codifies existing practices. However, the greater flexibility reduces instructor time. The FAA estimates that two days a month of an instructor's time can be saved. This amendment will save AMTS $12.0 million over the decade.

Amendments to appendix B increase student exposure to fundamental concepts and new, up-to-date skill requirements of the aviation industry. They also delete certain obsolete requirements. By deleting outdated requirements, this amendment saves new AMTS from the purchase of $2,600 in heat treatment equipment no longer required. Over the decade, this saves the AMTS about $184,000.

Changes to appendix D increase the technical knowledge and skill requirements for the powerplant curriculum. The amendment eliminates the need of new schools to purchase radial engines which cost about $1,050 apiece. These amendments will save the AMTS about $74,000 over the decade.

Cost-Benefit Comparison

The cost decrease resulting from this rule will total $39 million over the decade. (This is equal to $23 million when discounted to 1990.) The largest savings come from the relaxation of the constraint to use certified mechanics for certain classes. This saves the industry $17 million over the next decade. In contrast, new requirements set down by this rule will cost the industry, public, and the FAA about $3 million over the next decade. The largest cost increase will come from the amendments to appendix D related to powerplant service and repair. To meet the rule requirements, a third of the schools will need to purchase or mount a turbine at a cost of more than $2.5 million. The following table outlines all of the rules costs and benefits.

TABLE 1.—SUMMARY OF COST INCREASE AND DECREASES

[Part 147 Revision Rule—Aviation Maintenance Technician Schools]

Section	What the amendment will do	Cost assumptions	Net savings
§ 147.5	Amendment eliminates requirement that certified teachers be listed as qualified for a given subject matter before teaching it. Requires AMT schools give the FAA only a list of FAA certificated instructors.	Save 16 hours annually for each school and one hour per school for the FAA.	$1.1 million.
§ 147.15	Eliminates requirement to overhaul engines to an airworthy condition for mechanics training. This will save new schools the expense of building or leasing building or leasing engine overhaul space.	Assumes 600 sq ft room; $30 per sq ft; 7 new schools per year.	1.3 million.
§ 147.17	Updates school aircraft requirements for navigation and communications equipment. FAA now estimates that all existing schools have the appropriate equipment to meet the requirements..	No cost impact	0.0
§ 147.19	Eliminates the reference to tools and requires the AMT schools to supply only special tools. Results in students purchasing standard tools at new schools.	No cost change to society sience cost only shift from schools to students.	0.0

TABLE 1.—SUMMARY OF COST INCREASE AND DECREASES—Continued

[Part 147 Revision Rule—Aviation Maintenance Technician Schools]

Section	What the amendment will do	Cost assumptions	Net savings
§ 147.21	Permits schools to use a standard 50-minute instruction unit. Also allows AMT schools to teach material at a level higher that designated.	Save administrative time	7.5 million.
§ 147.23 and § 147.36	Requirement will permit schools to expand the use of instructors who are not certificated mechanics to teach additional material in the general curriculum. Specialty teachers in math physics, etc. can be employed..	Cost difference between certificated and non-certificated teacher estimated at $7,000/yr. Savings for 196 accrue to schools..	16.8 million.
§ 147.31	Amendment will give testing flexibility to AMT schools	Cost savings based on a 2 days per month less for one instructor's time at each of 196 schools.	12.0 million.
§ 147.35	Amendment will alter wording so that the AMT schools need give students a transcript of grades only upon request.	Reduces cost but in an insignificant way	0.0
§ 147.38	Amendment gives AMT schools flexibility to teach subjects above the teaching levels required.	No economic impact	0.0
Appendix A	Amendment facilitates use of new teaching materials and equipment such as computers and teaching software.	Possible long term savings that are indeterminable..	0.0
Appendix B	Amendment will increase student exposure to fundamental concepts and updates skill requirements.	Cost of new equipment to existing schools is $5,300. New schools can save $2,600 on old equipment not required..	(65,000)
Appendix C	Amendment will add a subject area on composite aircraft structural inspection, testing, and repair as well as delete and reduce certain outdated material in subject areas such as wood and fabric. It will increase certain current and emerging areas of technology.	Changes will have little cost impact since no capital expenditures are needed.	0.0
Appendix D	Amendment will add new subject material requirements for powerplant curriculum. It also will require all certificated AMT schools to use an operating jet turbine engine for instructional purposes.	One-sixth need to buy turbine ($74,000) and one-sixth need to have a turbine mounted ($2,600).	(2.4 million).

In addition to a large net savings from this rule, the FAA believes that the amendment has certain nonquantifiable benefits. In particular, the amendments to § 147 will result in better trained aviation mechanics and the skills of AMTS graduates will better fit the needs of the airline industry.

The FAA has determined that this rule will give the industry a substantial cost reduction. Also, the AMTS will produce better trained mechanics with these changes.

Regulatory Flexibility Determination

The Regulatory Flexibility Act §§ 603(b) and 603(c) of 1980 (RFA) ensures that government regulations do not needlessly and disproportionately burden small businesses. The RFA requires FAA to review each rule that may have "a significant economic impact on a substantial number of small entities."

FAA criteria sets a "substantial number" as not less than 11 and more than one-third of the small entities subject to the amendment. This rule will affect 162 aviation maintenance technician schools. The threshold size for an AMTS is 150 employees. A significant economic impact for an AMTS is $28,350.

This rule will have significant economic impact on approximately one-sixth of the AMTS. This impact will come from the requirement to purchase a turbine engine at a cost of about $74,000. However, only one-sixth of the industry will experience this significant cost, well below the one-third required to meet the guidelines for a significant impact. The remaining schools will receive a cost savings of about $16,000 per year. This cost savings is below the $28,350 threshold. The FAA, therefore, has determined that this rule will not have a substantial economic impact on a significant number of small entities.

International Trade Impact Assessment

This rulemaking will have little long-term impact on trade opportunities for both American firms doing business overseas and for foreign firms doing business in the United States. All AMTS regulated by part 147 are in the United States. The AMTS do attract foreign students for study since the United States leads the world in aviation technology.

Federal Implications

The regulations herein would not have substantial direct implications on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that these regulations would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Conclusion

For the reasons discussed in the preamble, and based on the findings in the Regulatory Evaluation and the International Trade Impact Analysis, the FAA has determined that this final rule is not major under Executive Order 12291. In addition, the FAA certifies that this rule will not have a significant economic impact, positive or negative, on a substantial number of small entities identified under the criteria of the Regulatory Flexibility Act. This rule is considered significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). The regulatory evaluation of this final rule, including a Regulatory Flexibility Determination and Trade Impact Analysis, has been placed in the docket. A copy may be obtained by contacting the person identified under **FOR FURTHER INFORMATION CONTACT.**

List of Subjects in 14 CFR Part 147

Aircraft, Airmen, Aviation safety, Aviation maintenance technician schools, Administrative and curriculum requirements, Educational facilities, Reporting and recordkeeping requirements, Schools.

The Rule

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 147 of the Federal Aviation Regulations as follows:

PART 147—AVIATION MAINTENANCE TECHNICIAN SCHOOLS

1. The authority citation for part 147 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1355, 1421, and 1427; 49 U.S.C. 106(g).

2. Section 147.5 is amended by revising paragraphs (a)(2) and (a)(3) to read as follows:

§ 147.5 Application and issue.

(a) * * *

(2) A list of the facilities and materials to be used;

(3) A list of its instructors, including the kind of certificate and ratings held and the certificate numbers; and

* * * * *

3. Section 147.15 is amended by revising paragraphs (a), (b), (c), (d), (f) introductory text, (g), and (h) to read as follows:

§ 147.15 Space requirements.

* * * * *

(a) An enclosed classroom suitable for teaching theory classes.

(b) Suitable facilities, either central or located in training areas, arranged to assure proper separation from the working space, for parts, tools, materials, and similar articles.

(c) Suitable area for application of finishing materials, including paint spraying.

(d) Suitable areas equipped with washtank and degreasing equipment with air pressure or other adequate cleaning equipment.

* * * * *

(f) Suitable area with adequate equipment, including benches, tables, and test equipment, to disassemble, service, and inspect.

* * * * *

(g) Suitable space with adequate equipment, including tables, benches, stands, and jacks, for disassembling, inspecting, and rigging aircraft.

(h) Suitable space with adequate equipment for disassembling, inspecting, assembling, troubleshooting, and timing engines.

4. Section 147.17 is amended by revising paragraph (a)(2) to read as follows:

§ 147.17 Instructional equipment requirements.

(a) * * *

(2) At least one aircraft of a type currently certificated by FAA for private or commercial operation, with powerplant, propeller, instruments, navigation and communications equipment, landing lights, and other equipment and accessories on which a maintenance technician might be required to work and with which the technician should be familiar.

* * * * *

5. Section 147.19 is revised to read as follows:

§ 147.19 Materials, special tools, and shop equipment requirements.

An applicant for an aviation maintenance technician school certificate and rating, or for an additional rating, must have an adequate supply of material, special tools, and such of the shop equipment as are appropriate to the approved curriculum of the school and are used in constructing and maintaining aircraft, to assure that each student will be properly instructed. The special tools and shop equipment must be in satisfactory working condition for the purpose for which they are to be used.

6. Section 147.21 is amended by revising paragraph (b) introductory text, paragraphs (c) and (d)(3), and by removing paragraph (e) to read as follows:

§ 147.21 General curriculum requirements.

* * * * *

(b) The curriculum must offer at least the following number of hours of instruction for the rating shown, and the instruction unit hour shall not be less than 50 minutes in length—

* * * * *

(c) The curriculum must cover the subjects and items prescribed in appendixes B, C, or D, as applicable. Each item must be taught to at least the indicated level of proficiency, as defined in appendix A.

(d) * * *

(3) A list of the minimum required school tests to be given.

7. Section 147.23 is revised to read as follows:

§ 147.23 Instructor requirements.

An applicant for an aviation maintenance technician school certificate and rating, or for an additional rating, must provide the number of instructors holding appropriate mechanic certificates and ratings that the Administrator determines necessary to provide adequate instruction and supervision of the students, including at least one such instructor for each 25 students in each shop class. However, the applicant may provide specialized instructors, who are not certificated mechanics, to teach mathematics, physics, basic electricity, basic hydraulics, drawing, and similar subjects. The applicant is required to maintain a list of the names and qualifications of specialized instructors, and upon request, provide a copy of the list to the FAA.

8. Section 147.31 is amended by revising paragraphs (b), (c)(1)(iv), (c)(3), and (e) and adding paragraph (c)(4) to read as follows:

§ 147.31 Attendance and enrollment, tests, and credit for prior instruction or experience.

* * * * *

(b) Each school shall give an appropriate test to each student who completes a unit of instruction as shown in that school's approved curriculum.

(c) * * *

(1) * * *

(iv) A certificated aviation maintenance technician school.

* * * * *

(3) A school may credit a student with previous aviation maintenance experience comparable to required curriculum subjects. It must determine the amount of credit to be allowed by documents verifying that experience, and by giving the student a test equal to the one given to students who complete the comparable required curriculum subject at the school.

(4) A school may credit a student seeking an additional rating with previous satisfactory completion of the general portion of an AMTS curriculum.

* * * * *

(e) A school shall use an approved system for determining final course grades and for recording student attendance. The system must show hours of absence allowed and show how the missed material will be made available to the student.

9. Section 147.35 is amended by revising paragraph (a) to read as follows:

§ 147.35 Transcripts and graduation certificates.

(a) Upon request, each certificated aviation maintenance technician school shall provide a transcript of the student's grades to each student who is graduated from that school or who leaves it before being graduated. An official of the school shall authenticate the transcript. The transcript must state the curriculum in which the student was enrolled, whether the student satisfactorily completed that curriculum, and the final grades the student received.

* * * * *

10. Section 147.36 is revised to read as follows:

§ 147.36 Maintenance of instructor requirements.

Each certificated aviation maintenance technician school shall, after certification or addition of a rating, continue to provide the number of instructors holding appropriate mechanic certificates and ratings that the Administrator determines necessary to provide adequate instruction to the students, including at least one such instructor for each 25 students in each shop class. The school may continue to provide specialized instructors who are not certificated mechanics to teach mathematics, physics, drawing, basic

electricity, basic hydraulics, and similar subjects.

11. Section 147.38 is amended by revising paragraph (a) to read as follows:

§ 147.38 Maintenance of curriculum requirements.

(a) Each certificated aviation maintenance technician school shall adhere to its approved curriculum. With FAA approval, curriculum subjects may be taught at levels exceeding those shown in Appendix A of this part.

* * * * *

12. Appendix A is amended by revising paragraph (b)(3)(ii) and by adding a new paragraph (c) to read as follows:

Appendix A to Part 147—Curriculum Requirements

* * * * *

(b) * * *

(3) * * *

(ii) Development of sufficient manipulative skills to simulate return to service.

* * * * *

(c) Teaching materials and equipment.

The curriculum may be presented utilizing currently accepted educational materials and equipment, including, but not limited to: calculators, computers, and audio-visual equipment.

13. Appendix B is amended by revising items 1, 3, 5, 7, 15, 16, 20, 23, 24, 25, 28, 30, and 31 to read as follows:

Appendix B to Part 147—General Curriculum Subjects

* * * * *

Teaching level	
(2)	1. Calculate and measure capacitance and inductance.
*	* * * *
(3)	3. Measure voltage, current, resistance, and continuity.
*	* * * *
(3)	5. Read and interpret aircraft electrical circuit diagrams, including solid state devices and logic functions.
*	* * * *
(2)	7. Use aircraft drawings, symbols, and system schematics.
*	* * * *
(2)	15. Perform dye penetrant, eddy current, ultrasonic, and magnetic particle inspections.
(1)	16. Perform basic heat-treating processes.
*	* * * *
(2)	20. Start, ground operate, move, service, and secure aircraft and identify typical ground operation hazards.
*	* * * *
(3)	23. Inspect, identify, remove, and treat aircraft corrosion and perform aircraft cleaning.
(3)	24. Extract roots and raise numbers to a given power.
(3)	25. Determine areas and volumes of various geometrical shapes.
*	* * * *
(3)	28. Write descriptions of work performed including aircraft discrepancies and corrective actions using typical aircraft maintenance records.
*	* * * *
(2)	30. Use and understand the principles of simple machines; sound, fluid, and heat dynamics; basic aerodynamics; aircraft structures; and theory of flight.
(3)	31. Demonstrate ability to read, comprehend, and apply information contained in FAA and manufacturers' aircraft maintenance specifications, data sheets, manuals, publications, and related Federal Aviation Regulations, Airworthiness Directives, and Advisory material.
*	* * * *

14. Appendix C is amended by revising items 2, 3, 5, 8, 10, 12, 16, 21, 25, 26, 33, 36, 37, 38, 39, 48, 50, 51, and 52, and the heading for Subject D under I. "Airframe Structures" to read as follows:

Appendix C to Part 147—Airframe Curriculum Subjects

*	* * * *
(1)	2. Identify wood defects.
(1)	3. Inspect wood structures.
*	* * * *
(1)	5. Inspect, test, and repair fabric and fiberglass.
*	* * * *
(2)	8. Apply finishing materials.
*	* * * *
	D. Sheet Metal and Non-Metallic Structures
(2)	10. Select, install, and remove special fasteners for metallic, bonded, and composite structures.
*	* * * *
(2)	12. Inspect, test, and repair fiberglass, plastics, honeycomb, composite, and laminated primary and secondary structures.
*	* * * *
(3)	16. Form, lay out, and bend sheet metal.
*	* * * *
(1)	21. Weld aluminum and stainless steel.
*	* * * *
(3)	25. Assemble aircraft components, including flight control surfaces.
(3)	26. Balance, rig, and inspect movable primary and secondary flight control surfaces.
*	* * * *
(1)	33. Inspect, check, troubleshoot, service, and repair heating, cooling, air conditioning, pressurization systems, and air cycle machines.
*	* * * *
(1)	36. Inspect, check, service, troubleshoot, and repair electronic flight instrument systems and both mechanical and electrical heading, speed, altitude, temperature, pressure, and position indicating systems to include the use of built-in test equipment.
(2)	37. Install instruments and perform a static pressure system leak test.
(1)	38. Inspect, check, and troubleshoot autopilot, servos and approach coupling systems.
(1)	39. Inspect, check, and service aircraft electronic communication and navigation systems, including VHF passenger address interphones and static discharge devices, aircraft VOR, ILS, LORAN, Radar beacon transponders, flight management computers, and GPWS.
*	* * * *
(2)	48. Repair and inspect aircraft electrical system components; crimp and splice wiring to manufacturers' specifications; and repair pins and sockets of aircraft connectors.
*	* * * *
(3)	50.a. Inspect, check, troubleshoot, service, and repair alternating and direct current electrical systems.
(1)	50.b. Inspect, check, and troubleshoot constant speed and integrated speed drive generators.
(2)	51. Inspect, check, and service speed and configuration warning systems, electrical brake controls, and anti-skid systems.
(3)	52. Inspect, check, troubleshoot, and service landing gear position indicating and warning systems.
*	* * * *

15. Appendix D is amended by revising items 1, 3, 6, 7, 9, 10, 18, 19, 20, 27, 32, and 35; by revising the headings for Subjects E, H, and J under II. "Powerplant Systems and Components"; by adding a new item 39 under II, heading K "Propellers"; and by adding two new subject headings, heading L, "Unducted Fans" consisting of item 40, and heading M, "Auxiliary Power Units" consisting of item 41, to read as follows:

Appendix D to Part 147—Powerplant Curriculum Subjects

* * * * *

Teaching level	
(1)	1. Inspect and repair a radial engine.
* * * * *	
(3)	3. Inspect, check, service, and repair reciprocating engines and engine installations.
* * * * *	
(3)	6. Inspect, check, service, and repair turbine engines and turbine engine installations.
(3)	7. Install, troubleshoot, and remove turbine engines.
* * * * *	
(2)	9. Troubleshoot, service, and repair electrical and mechanical fluid rate-of-flow indicating systems.
(3)	10. Inspect, check, service, troubleshoot, and repair electrical and mechanical engine temperature, pressure, and r.p.m. indicating systems.
* * * * *	
	E. Ignition and Starting systems
* * * * *	
(2)	18. Inspect, service, troubleshoot, and repair reciprocating and turbine engine ignition systems and components.
(3)	19.a. Inspect, service, troubleshoot, and repair turbine engine electrical starting systems.
(1)	19.b. Inspect, service, and troubleshoot turbine engine pneumatic starting systems.
(1)	20. Troubleshoot and adjust turbine engine fuel metering systems and electronic engine fuel controls.
* * * * *	
	H. Induction and Engine Airflow Systems
* * * * *	
(1)	27. Inspect, check, service, troubleshoot and repair heat exchangers, superchargers, and turbine engine airflow and temperature control systems.
* * * * *	
	J. Engine Exhaust and Reverser Systems
* * * * *	
(3)	32.a. Inspect, check, troubleshoot, service, and repair engine exhaust systems.
(1)	32.b. Troubleshoot and repair engine thrust reverser systems and related components.
* * * * *	
(1)	35. Balance propellers.
* * * * *	
(3)	39. Repair aluminum alloy propeller blades.
	L. Unducted Fans
(1)	40. Inspect and troubleshoot unducted fan systems and components.
	M. Auxiliary Power Units
(1)	41. Inspect, check, service, and troubleshoot turbine-driven auxiliary power units.

Issued in Washington, DC, on June 22, 1992.

Barry Lambert Harris,

Acting Administrator.

[FR Doc. 92-15131 Filed 6-26-92; 8:45 am]

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federal register

Monday
June 29, 1992

Part V

Department of Education

34 CFR Parts 307, 309, 315, 324, and 327
Office of Special Education and Rehabilitative Services; Final Regulations

DEPARTMENT OF EDUCATION

34 CFR Parts 307, 309, 315. 324, and 327

RIN 1820-AA98

Office of Special Education and Rehabilitative Services

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary amends existing regulations for certain discretionary grant programs authorized under the Individuals with Disabilities Education Act (IDEA), formerly the Education of the Handicapped Act. These amendments result primarily from the Individuals with Disabilities Education Act Amendments of 1991 (Pub. L. 102-119). The amendments to the regulations add new definitions and program activities consistent with the IDEA.

EFFECTIVE DATE: These regulations take effect either 45 days after publication in the **Federal Register** or later if the Congress takes certain adjournments, with the exception of § 309.33. Section 309.33 will become effective after the information collection requirements contained in that section have been submitted by the Department of Education and approved by the Office of Management and Budget under the Paperwork Reduction Act of 1980. If you want to know the effective date of these regulations, call or write the Department of Education contact person. A document announcing the effective date will be published in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: William Wolf, Office of Special Education Programs, Department of Education, 400 Maryland Avenue SW. (room 3090-MES 2313), Washington, DC 20202. Telephone: (202) 732-1006; (TDD (202) 732-1169).

SUPPLEMENTARY INFORMATION: These technical amendments implement statutory changes designed to improve the quality of educational instruction and other services for children with disabilities. The following technical changes are made in the final regulations: Under parts 307, 309, and 315, the definition of the term "children with disabilities" has been changed to allow, at a State's discretion, the inclusion of children, aged three through five, who are experiencing developmental delays and who, by reason thereof, need special education and related services. Under Part 309 the definition is changed to include all children from birth through age two who are at risk of developmental delay if early intervention services are not provided, include a new authorization to fund Statewide data systems projects, and expand required activities for experimental, demonstration, and outreach projects. Under part 315 the definition is changed to include, at a State's discretion, children from birth through age two who are at risk of having substantial developmental delays if early intervention services are not provided. Part 324 is changed by correcting the authority citation for the program and including a priority (for field-initiated and student-initiated research projects) that was inadvertently omitted in the technical changes published in the **Federal Register** on October 22, 1991 (56 FR 54697). Part 327 is changed to correct a regulatory citation published in the final regulations on October 22, 1991 (56 FR 54701).

These regulations support America 2000, the President's strategy for achieving the National Education Goals. They seek to help children with disabilities reach high levels of academic achievement called for by the goals and America 2000.

Executive Order 12291

These regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the order.

Regulatory Flexibility Act Certification

The Secretary certifies that these regulations will not have a significant economic impact on a substantial number of small entities. The small entities that would be affected by these final regulations are small local educational agencies (LEAs) receiving Federal funds under these programs. However, the regulations will not have a significant economic impact on the small LEAs affected because the regulations will not impose excessive regulatory burdens or require unnecessary Federal supervision. The regulations make only technical changes to implement legislation and to correct errors in previously published technical regulations.

Paperwork Reduction Act of 1980

Section 309.33 contains information collection requirements. As required by the Paperwork Reduction Act of 1980, the Department of Education has submitted a copy of this section to the Office of Management and Budget (OMB) for its review. (44 U.S.C. 3504(h))

This section affects States, which are the type of entities eligible to receive awards under this program. The Department needs and uses the information to evaluate the applications and select the entities that will receive awards.

Annual public reporting and recordkeeping burden for this collection of information is expected to average 40 hours per response for 1,000 respondents, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the Office of Information and Regulatory Affairs, OMB, room 3002, New Executive Office Building, Washington, DC 20503; Attention: Daniel J. Chenok.

Waiver of Rulemaking

In accordance with section 431(b)(2)(A) of the General Education Provisions Act (20 U.S.C. 1232(b)(2)(A)) and the Administrative Procedure Act (5 U.S.C. 553), it is the practice of the Secretary to offer interested parties the opportunity to comment on proposed regulations. However, since the changes merely incorporate statutory amendments into existing regulations or make technical corrections to previously published regulations, and do not establish new substantive policy, public comment could have no effect on the content of the amended regulations.

Therefore, the Secretary has determined under 5 U.S.C. 553(b)(B) that proposed rulemaking on these amended regulations is unnecessary and contrary to the public interest.

Intergovernmental Review

These programs (with the exception of part 324, Research in Education of Individuals with Disabilities) are subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for these programs.

Assessment of Educational Impact

The Secretary has determined that the regulations in this document would not require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects

34 CFR Part 307

Education, Education of individuals with disabilities, Education research, Grant program—Education, Teachers.

34 CFR Part 309

Education, Education of individuals with disabilities, Grant program—Education.

34 CFR Part 315

Education, Education of individuals with disabilities, Education research, Government contracts, Student aid, Teachers.

34 CFR Part 324

Education, Education of individuals with disabilities, Grant program—Education, Scholarships and fellowships, Teachers.

34 CFR Part 327

Children with disabilities.

(Catalog of Federal Domestic Assistance Numbers 84.023, Research in Education of Individuals with Disabilities Program; 84.024, Early Education for Children with Disabilities; 84.025, Services for Children with Deaf-Blindness; 84.086, Program for Children with Severe Disabilities; 84.159, Special Studies Program)

Dated: March 6, 1992.

Lamar Alexander,

Secretary of Education.

The Secretary amends parts 307, 309, 315, 324, and 327 of Title 34 of the Code of Federal Regulations as follows:

PART 307—SERVICES FOR CHILDREN WITH DEAF-BLINDNESS

1. The authority citation for part 307 continues to read as follows:

Authority: 20 U.S.C. 1422, unless otherwise noted.

2. Section 307.4 is amended by revising the definition of "Children with disabilities" in paragraph (c) to read as follows: § 307.4 *What definitions apply to the Services for Children with Deaf-Blindness program?*

* * * * *

(c) * * *

Children with disabilities. (1) For the purposes of this part, the term "children with disabilities" means children—

(i) With mental retardation, hearing impairments including deafness, speech or language impairments, visual impairments including blindness, serious emotional disturbance, orthopedic impairments, autism, traumatic brain injury, other health impairments, or specific learning disabilities; and

(ii) Who, for that reason, need special education and related services.

(2) For children aged three to five, inclusive, the term may, at State's discretion, include children—

(i) Who are experiencing developmental delays, as defined by the State and as measured by appropriate diagnostic instruments and procedures, in one or more of the following areas: physical development, cognitive development, communication development, social or emotional development, or adaptive development; and

(ii) Who, for that reason, need special education and related services.

* * * * *

PART 306—EARLY EDUCATION PROGRAM FOR CHILDREN WITH DISABILITIES

3. The authority citation for part 309 continues to read as follows:

Authority: 20 U.S.C. 1423, unless otherwise noted.

4. Section 309.2 is revised to read as follows: § 309.2 *Who is eligible for an award?*

(a) (1) Public agencies and nonprofit private organizations are eligible for a grant or cooperative agreement under § 309.3 (a) through (h).

(2) Profit-making organizations are also eligible under § 309.3 (e) and (f).

(b) States are eligible for grants or cooperative agreements under § 309.3(i).

(Authority: 20 U.S.C. 1423)

5. Section 309.3 is amended adding a new paragraph (i) to read as follows:

§ 309.3 What activities may the Secretary fund?

* * * * *

(i) *Statewide data systems projects.* These projects establish an inter-agency, multi-disciplinary, and coordinated statewide system for the identification, tracking, and referral to appropriate services of all categories of children who are biologically or environmentally at risk of having developmental delays.

* * * * *

6. Section 309.5 is amended by revising the definition of "Children with disabilities" in paragraph (c) and the authority citation at the end of the section to read as follows:

§ 309.5 What definitions apply to this program?

* * * * *

(c) * * *

Children with disabilities. (1) As used in this part, "children with disabilities" means those children from birth through age eight—

(i) With mental retardation, hearing impairments including deafness, speech or language impairments, visual impairments including blindness, serious emotional disturbance, orthopedic impairments, autism, traumatic brain injury, other health impairments, or specific learning disabilities; and

(ii) Who, because of those impairments, need special education and related services.

(2) The term includes infants and toddlers, birth through age two, who need early intervention services because they—

(i) Are experiencing developmental delays, as measured by appropriate diagnostic instruments and procedures, in one or more of the following areas: Cognitive development, physical development including vision and hearing, language and speech development, psychosocial development, or self-help skills, or

(ii) Have a diagnosed physical or mental condition that has a high probability of resulting in developmental delay.

(3) The term also includes individuals from birth through age two who are at risk of having substantial developmental delays if early intervention services are not provided.

(4) For children aged three to five, inclusive, the term may, at a State's discretion, include children—

(i) Who are experiencing developmental delays, as defined by the State and as measured by appropriate diagnostic instruments and procedures, in one or more of the following areas; Physical development, cognitive development, communication development, social or emotional development, or adaptive development; and

(ii) Who, for that reason, need special education and related services.

(Authority: 20 U.S.C. 1401(a)(1); 20 U.S.C. 1423(a)(1); 20 U.S.C. 1472(1))

7. Section 309.22 is revised to read as follows: § 309.22 *Are awards for experimental, demonstration, outreach, and statewide data systems projects geographically dispersed?*

To the extent feasible, the Secretary, in addition to using the selection criteria in § 309.21, geographically disperses awards for experimental,

demonstration, outreach, and statewide data systems projects throughout the Nation in urban and rural areas.

(Authority: 20 U.S.C. 1423(a)(3))

8. The hearing of subpart D is amended by adding "Statewide Data Systems," before the words, "and Outreach Projects".

9. Section 309.30 is amended by removing the word "and" at the end of paragraph (a)(8), by removing the period at the end of paragraph (a)(9) and adding in its place a semicolon, and by adding new paragraphs (a)(10) and (a)(11) to read as follows:

§ 309.30 What conditions must be met by recipients of experimental, demonstration, and outreach projects?

(a) * * *

(10) Facilitate and improve outreach to low-income, minority, rural, and other underserved populations eligible for assistance under Part B and H of the Act; and

(11) Support statewide projects, in conjunction with a State's application under Part H of the Act and a State's plan under Part B or the Act, to change the delivery of early intervention services to infants and toddlers with disabilities, and to change the delivery of special education and related services to preschool children with disabilities, from segregated to integrated environments.

* * * * *

10. Section 309.33 is redesignated as § 309.34.

11. A new § 309.33 is added to read as follows:

§ 309.33 What conditions must be met by recipients of statewide data systems projects?

Recipients of statewide data systems projects shall—

(a) Create a data system within the first year to document the numbers and types of at-risk children in the State and to develop linkages with all appropriate existing child data and tracking systems that assist in providing information;

(b) Coordinate activities with the child find component required under Parts B and H of the Act;

(c) Demonstrate the involvement of the lead agency and the State interagency coordinating council under Part H of the Act as well as the State educational agency under Part B of the Act;

(d) Coordinate with other relevant prevention activities across appropriate service agencies, organizations, councils, and commissions;

(e) Define an appropriate service delivery system based on children with various types of at-risk factors; and

(f) Document the need for additional services as well as barriers.

(Authority: 20 U.S.C. 1423(b))

PART 315—PROGRAM FOR CHILDREN WITH SEVERE DISABILITIES

12. The authority citation for part 315 continues to read as follows:

Authority: 20 U.S.C. 1424, unless otherwise noted.

13. Section 315.4 is amended by revising paragraph (c) to read as follows:

§ 315.4 What definitions apply to this program?

* * * * *

(c) *Children with disabilities.* (1) The term "children with disabilities" as used in this part means those children—

(i) With mental retardation, hearing impairments including deafness, speech or language impairments, visual impairments including blindness, serious emotional disturbance, orthopedic impairments, autism, traumatic brain injury, other health impairments, or specific learning disabilities; and

(ii) Who, for that reason, need special education and related services.

(2) The term includes infants and toddlers, birth through age two, who need early intervention services because they—

(i) Are experiencing developmental delays, as measured by appropriate diagnostic instruments and procedures, in one or more of the following areas: Cognitive development, physical development including vision and hearing, language and speech development, psychosocial development, or self-help skills; or

(ii) Have a diagnosed physical or mental condition that has a high probability of resulting in developmental delay.

(3) The term includes, at a State's discretion, individuals from birth through age two who are at risk of having substantial developmental delays if early intervention services are not provided.

(4) For children aged three to five, inclusive, the term may, at a State's discretion, include children—

(i) Who are experiencing developmental delays, as defined by the State and as measured by appropriate diagnostic instruments and procedures, in one or more of the following areas: physical development, cognitive development, communication development, social or emotional development, or adaptive development; and

(ii) Who, for that reason, need special education and related services.

* * * * *

PART 324—RESEARCH IN EDUCATION OF INDIVIDUALS WITH DISABILITIES PROGRAM

14. The authority citation for part 324 is revised to read as follows:

Authority: 20 U.S.C. 1441–1443, unless otherwise noted.

15. Section 324.10 is amended by adding a new paragraph (c) to read as follows:

§ 324.10 What kinds of priorities are authorized under this part?

* * * * *

(c) The Secretary also may support student-initiated or field-initiated projects consistent with the purpose of the program, as described in § 324.1.

* * * * *

PART 327—SPECIAL STUDIES PROGRAM

16. The authority citation for Part 327 continues to read as follows:

Authority: 20 U.S.C. 1418, unless otherwise noted.

§ 327.30 [Amended]

17. Section 327.30 is amended by removing § 307.10(f) and adding, in its place, "§ 327.10(f)."

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Part VI

Department of Housing and Urban Development

Office of Community Planning and Development

Notice of Funding Availability for Technical Assistance To Empower Low-Income Residents, Especially in Riot-Damaged Areas of Los Angeles and in Connection With Enterprise Zones

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Community Planning and Development

[Docket No. N-92-3454; FR-3300-N-01]

NOFA for Technical Assistance To Economically Empower Low Income Residents in CDBG Communities, Especially in Riot-Damaged Areas of Los Angeles, California, and in Connection With Implementation of Enterprise Zones

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice of funding availability (NOFA) for fiscal year 1992.

SUMMARY: This NOFA announces the availability of $12.1 million in Technical Assistance Program funds to support local economic empowerment, including business development and job training initiatives, for low-income residents in CDBG communities. This technical assistance program will complement and support efforts to rebuild riot-damaged areas within Los Angeles County, California (including the City and County of Los Angeles), and implement Federal enterprise zones (if enacted) and ongoing State enterprise zone efforts. HUD reserves the right to increase the amount of funds for this competition by up to $8 million should additional funds become available prior to the time of award.

These funds are to be awarded competitively as follows:

Subject to receipt of qualifying applications, a minimum of $4 million will be awarded to CDBG entitlement jurisdictions within Los Angeles County (including the City and County of Los Angeles, California) which are able to demonstrate extensive physical damage resulting from civil disturbances occurring in April-May 1992. (Referred to in this document as the "$4 million competition.")

Subject to receipt of qualifying applications, a minimum of $6.6 million will be awarded to CDBG entitlement jurisdictions other than those California jurisdictions identified above. (Referred to in this document as the $6.6 million competition.")

Subject to receipt of qualifying applications, a minimum of $1.5 million will be awarded to States for technical assistance and/or for distribution to non-entitlement CDBG eligible units of general local government. (Referred to in this document as the "$1.5 million competition.")

Specifically, the Department of Housing and Urban Development is interested in funding local programs that link and coordinate economic empowerment activities designed to benefit lower income persons among a jurisdiction's diverse public, private, and non-profit sectors. Applicants selected for award would use their funds to undertake and coordinate a comprehensive economic empowerment program which involves the private sector and includes business development and expansion and job training activities. Grant funds would be expected to be used over a two-year period.

An applicant's Statement of Work for the $4 million and $6.6 million competitions should identify the applicant's comprehensive economic empowerment program and the activities that will be performed to implement the program. States applying for the $1.5 million competition should provide a Statement of Work which describes a program for distributing the funds made available under this competition to non-entitlement CDBG-eligible units of general local government or consortiums of units of local government for the purpose of establishing or enhancing economic empowerment programs which develop and/or expand businesses and provide job training for lower income residents. Alternatively, States may provide a Statement of Work identifying how they will directly provide technical assistance services to non-entitlement units of general local government to design and implement economic empowerment programs as set forth in this NOFA, provided that such services are an enhancement or in addition to the technical assistance services already being provided by the State under its State-administered CDBG Non-Entitlement program.

An applicant's Statement of Work will be rated and ranked using the criteria established in this NOFA in the section entitled "Factors For Award."

In the body of this NOFA is information concerning:

(a) The principal objective of this technical assistance competition, the funding available, eligible applicants and activities, and factors for award;

(b) The application process, including how to apply and how the selections will be made; and

(c) A checklist of application submission requirements.

DATES: The application due date will be specified in the application kit. Applicants will have at least 30 calendar days to prepare and submit their application. The 30-day response time shall begin to run from the first date the application kit is available. The application kit will set out a specific date and hour deadline for the submission of applications that will be enforced strictly. Applicants are encouraged to submit their materials early to avoid disqualification based on failure to meet the stated application deadline.

APPLICATION KIT: All entitlement communities and States eligible to apply under this competition, will be mailed a copy of the Application Kit directly from HUD. All others wishing to obtain a copy of the application kit may contact the Processing and Control Branch, Office of Community Planning and Development, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410. Requests for kits may be made by calling (202) 708-1000, which is answered by an answering machine, or requests for kits may be faxed to (202) 708-3363. Please provide your name, address, telephone number and specify that you are requesting the application kit for FR-3300. All questions should be directed to the person indicated below as the contact for further information concerning this NOFA.

FOR FURTHER INFORMATION CONTACT: Bob Duncan, Office of Economic Development, 451 7th Street SW., Washington, DC, room 7140. Telephone number: (202) 708-3773, or, for hearing impaired, TDD (202) 708-2565. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act Statement

The information collection requirements contained in this notice have been approved by the Office of Management and Budget (OMB), under section 3504(h) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501-3520), and assigned OMB control number 2535-0084.

I. Purpose and Substantive Description

A. Authority

This competition solicits grant applications from applicants eligible to receive technical assistance funds as limited by the "eligible applicants" listings in paragraph I.C.2 of this NOFA. Grants will be made to pursue and implement local economic empowerment programs, which include business development and expansion and job training activities through the private sector. These programs should be targeted to lower income neighborhoods in the CDBG entitlement

communities and in non-entitlement units of general local government selected by States for CDBG program funding under the State-administered CDBG non-entitlement program. The Criteria used by HUD in selecting awardees are contained in Section II of this NOFA, under the title "Factors for Award". Applicants should pay particular attention to these Factors For Award in designing their program, as all applications will be rated and ranked according to the criteria.

This competition is authorized under section 107(b)(5) of the Housing and Community Development Act of 1974, as amended (the "Act"). Program requirements applicable to awards made under this competition are contained in HUD regulations at 24 CFR 570.400 and 570.402, governing the Community Development Technical Assistance Program.

Note: Section 570.402 of the regulation was revised as published in the Federal Register on August 26, 1991, 56 FR 41936–41940. All references in this NOFA to § 570.402 are to that section as so revised.) Any proposed technical assistance activities must meet the eligibility requirements established in these regulations and as limited by this NOFA.

For the purposes of this NOFA, "low and moderate income person" or "lower-income person" means a person defined in 24 CFR 570.3 (r) and (m).

"Low and moderate income neighborhood" or "lower income neighborhood" means a contiguous area within the entitlement city, urban county or small city, where 51 percent or more of the residents are low and moderate as defined in 24 CFR 570.3 (r) and (m). In the case of jurisdictions of under 25,000 population, the entire jurisdiction could be considered as a low- and moderate-income neighborhood if 51 percent or more of the residents meet the low- and moderate-income definitions.

"Enterprise Zone" means any area currently designated as such under State law and/or Federal Enterprise Zones (if enacted).

B. Allocation and Form of Award

For this completion, HUD announces the availability of $12.1 million in Technical Assistance Program grants to support local economic empowerment including business development and expansion and job creation initiatives through the private sector. HUD reserves the right to increase the amount of funds for this competition by up to $8 million should additional funds become available prior to the time of award. These funds are to be awarded competitively on a national basis in accordance with the following:

- A minimum of $4 million will be available to CDBG entitlement jurisdictions within Los Angeles County (including the City and County of Los Angeles, California) which can demonstrate extensive physical damage resulting from civil disturbances occurring in April–May, 1992. Applicants may apply for funds in accordance with the following schedule:

Cities and counties of more than 500,000 in population: Up to $750,000 cities of 250,000–500,000 in population: Up to $350,000 cities of less than 250,000 in population: Up to $200,000.

- A minimum of $6.6 million will be available to CDBG entitlement jurisdictions other than those California jurisdictions identified above. Applicants may apply for funds up to $350,000.
- A minimum of $1.5 million will be available to States for technical assistance and/or distribution to non-entitlement CDBG eligible units of general local government. Applicants may apply for funds up to $250,000.

Section 107(b)(5) of the Act authorizes HUD to award funds for the purpose of providing technical assistance in planning and carrying out CDBG programs under title I of the Act.

Under this competition, HUD will fund the applicants who best meet the criteria for selection identified in this NOFA under Factors For Award. HUD reserves the right to negotiate the final grant amount and Statement of Work with all applicants. If HUD determines a smaller grant amount than that requested would be appropriate to the proposed activities, HUD may reduce the amount of funding for an applicant. If HUD receives an insufficient number of applications to expend all funds in a given category, or if funds remain all acceptable applications have been funded, HUD may negotiate increased amounts of grant awards with applicants selected for funding within any or each grant award category.

C. Description of Technical Assistance Competition

1. Background and Purpose

The Department of Housing and Urban Development believes that through community involvement and citizen empowerment, federal funds channeled through the Community Development Block Grant Program can be used more effectively to enhance efforts by the private sector to create jobs, provide job training and create more opportunities for our youth and residents in low- and moderate-income neighborhoods. This technical assistance effort is focused on creating a public private partnership between city officials, private sector organizations, a broad array of local neighborhood groups and organizations, and resident management and other resident groups to forge a new sense of involvement and participation in our nation's cities so that together we can reverse the economic and social breakdown of our communities.

The objectives of this technical assistance competition are:

(1) To create and implement, over a two-year period, an economic empowerment program which would complement and support implementation of Federal enterprise zones (if enacted), and on-going State enterprise zone efforts. The program would comprehensively and in a broad-based fashion establish a set of activities to be conducted to link and coordinate economic empowerment and job training efforts designed to benefit lower income residents among a jurisdiction's diverse public, private and non-profit sectors.

(2) Forge an on-going coalition and collaborative effort to implement the applicant's program involving relevant federal, state and local public sector economic development organizations, State and local police and other law enforcement officials, the business community (especially representatives of racially and ethnically diverse business associations), lower income neighborhood non-profit organizations (including resident management councils and corporations), private sector financiers, private sector insurers, private industry councils or similar organizations, religious organizations and institutions, public utilities, and secondary and post-secondary educational institutions.

2. Eligible Applicants

Eligible applicants are:

For the $4 million competition: CDBG entitlement jurisdictions within Los Angeles County (including the City and County of Los Angeles, California) that can demonstrate extensive physical damage resulting from the civil disturbances of April–May 1992.

For the $6.6 million competition: CDBG entitlement jurisdictions other than those enumerated above.

For the $1.5 million competition: States for technical assistance and/or distribution to non-entitlement CDBG eligible units of general local government under the State-administered Program for Non-entitlement Communities, 24 CFR part 570, subpart I

3. Program Requirements

This program is funded under the technical assistance program of section 107(b)(5) of title I of the Housing and Community Development Act of 1974, as amended. Technical assistance funds must be used for the provision of skills and knowledge to improve effectiveness in planning, developing and administering CDBG assisted activities. Technical assistance activities funded under this grant must be directed at implementation and coordination of economic empowerment programs which are being or are planned to be carried out in whole or in part with CDBG funding provided by metropolitan cities and urban counties participating in the CDBG entitlement grant program and units of general local government participating in the State-administered CDBG program for non-entitlement communities.

(a) CDBG nexus eligibility criterion for entitlement communities. Applicants must establish a CDBG nexus between the technical assistance to be provided and the proposed program of activities targeted for assistance with these grant funds. A CDBG nexus exists if the technical assistance activities proposed by the applicant for funding through this NOFA are to be used by the awardee to develop, coordinate or implement specific economic empowerment activities that are being funded or are planned to be funded, in whole or in part, with a locality's CDBG program funds.

Proof of nexus shall consist of a statement signed by the Chief Executive Officer of the CDBG funded community or the Director of the agency administering the CDBG program funds that (1) identifies the economic empowerment program including business development and expansion and job training activities to be assisted under this award; (2) describes how the technical assistance will assist the community in improving the development and implementation of the proposed activities; and (3) provides an estimate of the amount of CDBG program funds currently committed or planned to be committed to the proposed economic empowerment programs within the proposed grant period and the date(s) of availability of the funds.

(b) CDBG nexus for State applicants. State applicants must establish a nexus between the technical assistance funded under this competition and activities assisted or to be assisted in whole or in part with funds provided to units of general local government under the State's CDBG Program. A nexus exists where the technical assistance activities are directed to the development, planning, administration or implementation of specific CDBG-assisted economic empowerment activities.

Proof of nexus shall consist of a statement signed by the Director of the State-Administered CDBG Program certifying that the technical assistance will be made available only in units of general local government which:

(i) Are undertaking, or have been approved to undertake, economic empowerment activities with CDBG funds;

(ii) Are not currently undertaking a program of CDBG-assisted economic empowerment activities, but for which the State will grant a program amendment to permit such activities; or

(iii) Will be given a funding priority for economic empowerment activities in the State's next CDBG non-entitlement program funding round.

The statement must also certify that where technical assistance is provided by the State with funds made available under this competition, the activities will be in addition to, or an enhancement of, the State's existing obligation to provide technical assistance to non-entitlement communities under the CDBG program pursuant to the State's certification made in accordance with section 106(d)(2)(C)(ii) of the Housing and Community Development Act of 1974, as amended.

(c) For the $4 million competition. Entitlement jurisdictions applying for funds under the $4 million competition must demonstrate that they experienced extensive physical damage as a result of the civil disturbances of April–May 1992. Applicants which cannot demonstrate extensive physical damage will not receive funding consideration under this competition, but will be considered under the $6.6 million competition.

In evaluating this program requirement, HUD will take into account the following types of measures: The percentage of businesses lost due to fire or looting; the dollar amount of insurance claims for loss of businesses or homes; and the estimate of physical damage as determined by the Federal Emergency Management Agency or other public entity. Applicants may submit additional measures of physical damage with supporting documentation in their applications.

4. Eligible Activities

Activities undertaken are to implement a program which comprehensively links on-going and proposed economic empowerment activities in low- and moderate-income neighborhoods, including business development and expansion and job training activities within a jurisdiction. Examples of the broad array of activities eligible for assistance under this competition are listed below:

- Linkage of the formulated economic empowerment program with the implementation of federal enterprise zones (if enacted);
- Linkage of the formulated economic empowerment program with ongoing state enterprise zones (and counterpart) efforts;
- Creation within lower income neighborhoods of new state enterprise zone (and counterpart) tax reduction and deregulatory initiatives;
- Linkage of CDBG assisted economic empowerment business expansion and development and job training efforts with housing rehabilitation undertaken, or to be undertaken, or HUD-assisted public housing, lower income HUD-assisted multi-family or lower income HUD-assisted single family sites, especially if undertaken, or to be undertaken, in conjunction with assistance under HUD HOPE I, HOPE II, and/or HOPE III programs;
- Identification of Federal, state and local government regulations whose elimination (even temporarily) would remove impediments to the creation or expansion of businesses in lower-income neighborhoods and preparation of appropriate revisions or waiver requests to eliminate or ameliorate such restrictions;
- Identification of government required business fees, permits, licensing charges and the like whose elimination (even temporarily) would remove impediments to the creation or expansion of businesses in lower-income neighborhoods and preparation of appropriate revisions or waiver requests to eliminate or ameliorate such restrictions;
- Assistance in expanding job opportunities for lower-income residents with established companies;
- Promotion of entrepreneurship and self-employment programs, including those targeting youth, within lower-income neighborhoods;
- Creation or expansion of private-sector oriented programs supporting cooperative ownership within lower-income neighborhoods of new enterprises and/or purchase of existing enterprises;
- Creation or expansion of private sector-oriented micro-enterprise

programs in lower-income neighborhoods;

• Promotion of private sector-oriented business incubator efforts in lower-income neighborhoods;

• Promotion of private sector bank community development corporations designed to spur investment in lower-income neighborhoods;

• Planning of public and/or private infrastructure (including utilities) improvements to support commercial and industrial activities in lower-income communities;

• Assistance to multi-county nonprofit organizations in expanding or creating empowerment activities coordinated with ongoing Job Training Partnership Act and private sector activities;

Additionally for applicants for the $4 million competition for jurisdictions within Los Angeles County (including the City and County of Los Angeles):

• Strategic planning for the rebuilding of businesses physically damaged, destroyed, or looted during the civil disturbance of late April–May 1992;

• Assistance in preparation of applications for Federal, State or private economic development assistance; and

• Assistance for devising strategies to assure the delivery to residents of lower-income areas and business owners, of Federal, state, and local services and goods after the Disaster Assistance Centers have closed.

II. Factors For Award

A. Rating Factors

(1) $4 Million Competition

HUD will use the following criteria to rate and rank applications received in response to this competition. The factors and maximum number of points for each factor are provided below. The total number of points is 100.

(a) The probable effectiveness of the application in meeting the needs of localities and accomplishing program objectives (32 of 100 points).

(i) The extent to which the applicant's statement of work provides for a comprehensive linkage of public and private economic empowerment activities, including business development and expansion and job training activities, especially in enterprise zones. (8 of 32 points)

(ii) The extent to which the applicant's economic empowerment program includes a wide variety of activities which would develop and expand businesses in low- and moderate-income neighborhoods and provide job training opportunities for low-income residents, especially those in enterprise zones. (5 of 32 points)

(iii) The extent to which the applicant's activities proposed in the applicant's statement of work are targeted to benefit low-income residents in lower income neighborhoods as demonstrated by the extent to which the applicant's most recent CDBG Final Statement reflects the goals and priorities established in the applicant's proposed economic empowerment program and indicates the applicant will use its available CDBG program funds to implement proposed activities, especially those dealing with enterprise zones. In the case of applicants in the process of developing or amending their most recent CDBG program final statement, the extent to which the applicant has provided evidence of a commitment to reorient and use its CDBG program funds to support the applicant's proposed economic empowerment program and implement activities proposed in the applicant's Statement of Work especially in enterprise zones. (8 of 32 points)

(iv) The extent to which the applicant's proposed activities are targeted to develop and implement neighborhood-based business development and job training activities for low-income persons residing in the targeted assistance neighborhoods, especially assistance targeted for residents of enterprise zones. (7 of 32 points)

(v) The extent to which the applicant has successfully used a collaborative process involving local groups and organizations to develop and implement neighborhood-based economic empowerment activities targeted to, and benefiting, selected lower income area residents, especially residents in enterprise zones. (4 of 32 points)

(b) The soundness and cost effectiveness of the proposed approach. (17 of 100 points)

(i) The extent to which the applicant's Statement of Work for its economic empowerment program can be expected to result in job training and/or business development opportunities as expressed by the anticipated number of persons to be trained and/or businesses to be created. (10 of 17 points)

(ii) The extent to which the applicant has proposed to leverage CDBG program funds with other federal, State, local or private sector funds for the implementation of the activities proposed to be undertaken in the applicant's economic empowerment program, especially in enterprise zones. (7 of 17 points)

(c) The capacity of the applicant to carry out the proposed activities in a timely and effective fashion. (46 of 100 points)

(i) The extent to which the applicant can demonstrate that a broad diversity of groups and organizations has participated in the development of the economic empowerment program for which funds are requested and can demonstrate that such groups and organizations have agreed to participate in implementation of the economic empowerment program over the two-year grant award period. (18 of 46 points).

(ii) The extent to which the applicant has successfully gained the support and promised participation of low-income residents residing in areas to be assisted in the implementation of the specific activities proposed in the applicant's economic empowerment program. (18 of 46 points).

(iii) The extent to which the applicant demonstrates timely and satisfactory recent performance in community and economic development activities, including HUD assisted activities or projects of the same or similar types to those proposed in the Statement of Work. (5 of 46 points)

(iv) The extent to which the background and experience of the program manager and key staff demonstrate the capability satisfactorily to conduct the proposed activities in a timely fashion. (5 of 46 points)

(d) The extent to which the results may be transferable or applicable to other Title I or other program participants, as judged by the extent to which the economic empowerment program and the approach used to implement the economic empowerment program can be replicated by other CDBG communities. (5 of 100 points)

(2) $6.6 Million Competition

HUD will use the same criteria as indicated above to rate and rank applications received in response to this competition. However, in addition to the ranking factors identified, HUD will use the program policy criterion for geographic distribution as identified in 24 CFR 570.402(f)(1)(ii)(A), in selecting applications for funding under the $6.6 competition.

(3) $1.5 Million Competition

HUD will use the following criteria to rate and rank applications received in response to this competition. The factors and maximum number of points for each factor are provided below. The total number of points is 100. HUD will also use the program policy criterion for geographic distribution as identified in 24 CFR 570.402(f)(1)(ii)(A), in selecting

applications for funding under this competition to ensure an equitable distribution of funds nationwide.

(a) The probable effectiveness of the application in meeting the needs of localities and accomplishing program objectives. (28 of 100 points)

(i) The extent to which the State's technical assistance and/or method for distribution of funds awarded under this competition will ensure that selected CDBG eligible non-entitlement communities provide for a comprehensive linkage of public and private economic empowerment activities, including business development and expansion and job training activities especially in Enterprise Zones. (10 of 28 points)

(ii) The extent to which the State's technical assistance and/or method for distribution of these funds to localities results in a variety of CDBG funded economic empowerment activities especially in Enterprise Zones. (10 of 28 points)

(iii) The extent to which the State's technical assistance, and/or the State's method for distribution of funds to be awarded as a result of this competition is targeted to economic empowerment activities which coordinate with Job Training Partnership Act and private sector employment and job training activities. (8 of 28 points)

(b) The soundness and cost effectiveness of the proposed approach. (17 points of 100). In rating this factor, HUD will consider:

(i) The extent to which the State's technical assistance and/or method for distribution of funds awarded under this competition will result in tangible improvements in the economic environment of the area as expressed by the anticipated number of businesses developed or expanded and/or persons trained. (10 of 17 points)

(ii) The extent to which the State's technical assistance and/or method for distribution of funds awarded under this competition leverages CDBG with other Federal, State, local or private sector funds for implementation of economic empowerment programs to be assisted through this competition, especially in Enterprise Zones. (7 of 17 points).

(c) The capacity of the applicant to carry out the proposed activities in a timely and effective fashion. (50 of 100 points). In rating this factor, HUD will consider:

(i) The extent to which the State's technical assistance and/or method for distribution of funds awarded to CDBG eligible non-entitlement communities under this competition, results in programs which can demonstrate that a broad diversity of groups and organizations will participate in the implementation of the community's economic empowerment program over a two-year period of time (25 of 50 points)

(ii) The extent to which the State's technical assistance and/or method for distribution of funds awarded under this competition results in non-entitlement communities successfully demonstrating that they will gain the support of low-income residents residing in areas targeted to be assisted through economic empowerment program activities (15 of 50 points).

(iii) The extent to which the applicant demonstrates timely and satisfactory recent performance in providing a variety of technical assistance services and/or oversight management of the State's CDBG Program for Non-Entitlement Communities sub-grantees (5 of 50 points)

(iv) The extent to which the applicant demonstrates the capacity, background and experience of the program manager and key staff in satisfactorily conducting activities similar to those proposed in the statement of work. (5 of 50 points)

(d) The extent to which the State's technical assistance and/or method of distribution of funds awarded under this competition results in economic empowerment programs which are transferable, applicable or may be replicable to other States and/or non-entitlement communities. (5 of 100 points).

B. Selection Process (Applies to all Competitions

(1) Applications for funding under this NOFA will be evaluated competitively within each category of assistance and awarded points based upon the evaluation criteria specified in section II, Factors For Award, of this NOFA. After assigning points based upon the evaluation criteria identified in section II, Factors For Award, a headquarters evaluation panel shall rank the applications in order by score. For the $4 million competition, applicants will be funded in rank order until all available funds have been expended. Applications for the $6.6 million and the $1.5 million competitions will be rated and ranked in order by score by a headquarters evaluation panel after which the panel will apply the program policy criteria for geographic distribution ((24 CFR 570.402(f)(1)(ii)(A)) in selecting applications for funding.

Applications will receive funding consideration provided they meet the eligibility requirements for establishment of a CDBG nexus and receive a minimum score of 50 points under the Rating Factors. Applications which do not meet these requirements will not be funded even if funds are available. HUD reserves the right to fund all or a portion of the proposed activities identified in each application; determine an appropriate amount of funds for the activities, or reduce the amount of funding based upon the appropriateness of the proposed activities.

(2) If two or more applications have the same number of points and their are not sufficient funds to fund both, the application with the most points for rating factor (c) shall be selected. If there is still a tie, the application with the most points for rating factor (a) will be selected.

(3) If the amount of funds remaining after funding as many of the highest ranking applications as possible is insufficient for the next highest ranking application, HUD will determine (based upon the proposed activities) the feasibility of funding part of the application and offering a smaller grant amount to the applicant. If HUD determines that, given the proposed activities, a smaller grant amount would make the activities infeasible, or if the applicant turns down the reduced grant amount, HUD shall make the same determination for the next highest ranking application, until all applications within the funding range have been exhausted or available funds have been expended.

(4) If HUD receives an insufficient number of applications to expend all funds in a given category or all funds set aside for this NOFA, or if funds remain after HUD approves all acceptable applications or if more funds become available, HUD may move funds from one category to another or HUD may negotiate increased grant awards with applicants approved for funding.

(5) After all applications have been rated and ranked and awardees have been selected, funds available for this competition that are not used may be made available for other technical assistance competitions.

III. Application Submission Process

A. Obtaining Applications

HUD will mail a copy of the application kit to all entitlement communities and States eligible to apply for a grant under this NOFA. All others interested in obtaining an application kit, may call (202) 708–1000 or write the Processing and Control Branch, Office of Community Planning and Development, Department of Housing and Urban Development, 451 7th Street SW., room 7255, Washington, DC 20410. Requests for an application kit may also be faxed

to (202) 708–3363. (These are not a toll-free number.) When requesting an application Kit, please refer to FR–3300, and provide your name, address (including zip code), and telephone number (including area code).

B. Submitting Applications and Deadline Date

Applications for funding under this NOFA must be complete and must be physically received in the place designated in the application kit for receipt, by the deadline date and time specified in the application kit. The application deadline date established in the kit for this competition is firm as to date and hour. In the interest of fairness to all competing applicants, the Department will treat as ineligible for consideration any application that is received after the deadline. Applicants should take this practice into account and make early submission of their materials to avoid any risk or loss of eligibility brought about by unanticipated delays or other delivery-related problems.

IV. Checklist of Application Submission Requirements

A. Application Content

Applicants must complete and submit applications in accordance with instructions contained in the application kit. The following is a checklist of the application contents that will be specified in the Request For Grant Application (RFGA) Kit:

(1) Transmittal Letter;

(2) OMB Standard Form 424 (Request For Federal Assistance) and 424B (Non Construction Assurances);

(3) Letter(s) of commitment from groups and organizations participating in the program;

(4) Letter(s) of funding commitment from public (other than CDBG program funds) and/or private sources participating in the program;

(5) Letter of CDBG funding Commitment signed by the Chief Executive Officer of the CDBG entitlement community (For the $4 million and $6.6 million competitions);

(6) Letter signed by the Chief Executive Officer of the State or the Administrator of the State-Administered CDBG Non-Entitlement Program, certifying that all funds distributed to eligible non-entitled units of general local government in support of this technical assistance program will meet the CDBG Technical Assistance Program nexus requirements and will expand or enhance existing CDBG non-entitlement program technical assistance activities;

(7) Narrative Statement Addressing the Factors For Award;

(8) Organization and Management Plan; and

(9) Project Budget-By-Task;

B. Certifications and Exhibits

Applications must also include the following:

(1) Drug-Free Workplace Certification;

(2) Certification Prohibiting Excessive Force against non-violent civil rights demonstrators pursuant to 42 U.S.C. 5304; and

(3) Certification on HUD Form 2880 disclosing receipt of at least $200,000 in covered assistance during the fiscal year, pursuant to 24 CFR part 12, subpart C.

V. Corrections to Deficient Applications

After the submission deadline date, HUD will screen each application to determine whether it is complete. If an application lacks certain technical items or contains a technical error, such as an incorrect signatory, HUD will notify the applicant in writing that it has 14 calendar days from the date of HUD's written notification to cure the technical deficiency. If the applicant fails to submit the missing material within the 14-day cure period, HUD will disqualify the application.

This 14-day cure period applies only to non-substantive deficiencies or errors. Any deficiency capable of cure will involve only items not necessary for HUD to assess the merits of an application against the factors specified in this NOFA.

VI. Other Matters

A. Section 102

In accordance with section 102 of the Department of Housing and Urban Reform Act of 1989 (Reform Act) and the HUD regulations implementing section 102 of the Reform Act at 24 CFR part 12, HUD will ensure the documentation and other information regarding each application submitted under this notice of funding availability is sufficient to indicate the basis upon which assistance was provided or denied. In accordance with § 12.14(b) of these regulations, HUD will make this material available for public inspection for a period of five years, beginning not less than 30 calendar days after the date on which assistance is provided. Additionally, in accordance with § 12.16, HUD will notify the public by notice published in the **Federal Register**, of award decisions made by HUD under this funding.

B. Prohibition Against Lobbying Activities

The use of funds awarded under this NOFA is subject to the disclosure requirements and prohibitions of section 319 of the Department of the Interior and Related Agencies Appropriations Act for Fiscal Year 1990 (31 U.S.C. 1352) and the implementing regulations at 24 CFR part 87. The authorities prohibit recipients of federal contracts, grants, or loans from using appropriated funds for lobbying the Executive or Legislative Branches of the Federal Government in connection with a specific contract, grant or loan. The prohibition also covers the awarding of contracts, grants, cooperative agreements, or loans unless the recipient has made an acceptable certification regarding lobbying. Under 24 CFR part 87, applicants, recipients, and subrecipients of assistance exceeding $100,000 must certify that no federal funds have or will be spent on lobbying activities in connection with the assistance.

C. Prohibition Against Lobbying of HUD Personnel

Section 112 of the Housing and Urban Development Reform Act of 1989 (Pub. L. 101–235, approved December 15, 1989) (Reform Act) added a new section 13 to the Department of Housing and Urban Development Act (42 U.S.C. 3531 *et. seq.*). Section 13 contains two provisions concerning efforts to influence HUD's decisions with respect to financial assistance. The first imposes disclosure requirements on those who are typically involved in these efforts—those who pay others to influence the award of assistance or the taking of a management action by the Department and those who are paid to provide the influence. The second restricts the payment of fees to those who are paid to influence the award of HUD assistance, if the fees are tied to the number of housing units received or are based on the amount of assistance received, or if they are contingent upon the receipt of assistance. Section 13 was implemented by final rule published in the **Federal Register** on May 17, 1991 (56 FR 29912). Appendix A of this rule contains examples of activities covered by this rule. Any questions concerning the rule should be directed to the Office of Ethics, room 2158, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410. Telephone: (202) 708–3815 or 708–1112 (TDD). These are not toll-free numbers. Forms necessary for compliance with the rule may be obtained from the local HUD office.

D. Prohibition Against Advance Information on Funding Decisions

Section 103 of the Reform Act proscribes the communication of certain information by HUD employees to persons not authorized to receive that information during the selection process for the award of assistance. HUD's regulations implementing section 103 is codified at 24 CFR part 4 (see 56 FR 22088, May 13, 1991). In accordance with the requirements of section 103, HUD employees involved in the review of applications and in the making of funding decisions are restrained by 24 CFR part 4 from providing advance information to any person (other than an authorized employee of HUD) concerning funding decisions, or from otherwise giving any applicant an unfair competitive advantage. Persons who apply for assistance in this competition should confine their inquiries to the subject areas permitted by 24 CFR part 4. Applicants who have questions should contact the HUD Office of Ethics (202) 708–3815. (This is not a toll-free number.)

E. Environmental Impact

In accordance with 40 CFR 1508.4 of the regulations of the Council on Environmental Quality and 24 CFR 50.20(b) of the HUD regulations, the policies and procedures in this document relate only to the provision of technical assistance and, therefore, are categorically excluded from the requirements of the National Environmental Policy Act.

F. Federalism Executive Order

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that the policies and procedures contained in this NOFA will not have substantial direct effects on states or their political subdivisions, or the distribution of power and responsibilities among the various levels of government. Specifically, the NOFA solicits participation in an effort to provide technical assistance to promote implementation of economic empowerment programs, including business development and expansion and job training activities designed to benefit lower income residents of CDBG funded communities. The NOFA does not impinge upon the relationships between the Federal Government, and state and local governments.

G. Family Executive Order

The General Counsel, as the Designated Official under Executive Order 12606, The Family, has determined that this document may have potential for significant beneficial impact on family formation, maintenance and general well-being. The technical assistance to be provided by the funding is expected to help lower income families through economic empowerment. Since the impact upon the family is considered beneficial, through increased economic opportunities and self-sufficiency, no further review under this Order is necessary.

H. Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance Program number is 14.227.

Authority: Title I, Housing and Community Development Act of 1974, (42 U.S.C. 5301–5320; sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d); 24 CFR 570.402.

Dated: June 23, 1992.

Randall Erben,

Acting Assistant Secretary for Community Planning and Development.

[FR Doc. 92–15157 Filed 6–26–92; 8:45 am]

BILLING CODE 4210–29–M

federal register

Monday
June 29, 1992

Part VII

Department of Education

34 CFR Part 664

Higher Education Programs in Modern Foreign Language Training and Area Studies—Group Projects Abroad Program; Rule

DEPARTMENT OF EDUCATION

Office of Postsecondary Education

34 CFR Part 664

RIN: 1840–AB54

Higher Education Programs in Modern Foreign Language Training and Area Studies—Group Projects Abroad Program

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary amends the regulations governing the Higher Education Programs in Modern Foreign Language Training and Area Studies—Group Projects Abroad Program (34 CFR part 664). The purpose of these final regulations is twofold: (1) to improve program quality, efficiency, and flexibility by establishing a funding period of up to three years for the advanced overseas intensive language projects; and (2) to correct a numbering error in a section of the regulations.

EFFECTIVE DATE: These regulations take effect either 45 days after publication in the Federal Register or later if the Congress take certain adjournments. If you want to know the effective date of these regulations, call or write the Department of Education contact person. A document announcing the effective date will be published in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph Hines, U.S. Department of Education, 400 Maryland Avenue SW., room 3052, ROB–3, Washington, DC 20202–5332. Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1–800–877–8339 (in the Washington, DC 202 area code, telephone 708–9300) between 8 a.m. and 7 p.m., Eastern time.

SUPPLEMENTARY INFORMATION: On March 19, 1992, the Secretary published a notice of proposed rulemaking (NPRM) for these amendments in the Federal Register (57 FR 9618). There are no differences between the NPRM and these final regulations.

Public Comment

In the NPRM the Secretary invited comments on the proposed regulations. The Secretary did not receive any comments.

Executive Order 12291

These regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the order.

Paperwork Reduction Act of 1980

These proposed regulations have been examined under the Paperwork Reduction Act of 1980 and have been found to contain no information collection requirements.

Assessment of Educational Impact

In the notice of proposed rulemaking, the Secretary requested comments on whether the proposed regulations would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

Based on the response to the proposed rules and on its own review, the Department has determined that the regulations in this document do not require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 664

Colleges and universities, Education, Educational study programs, Grant programs—education, Teachers.

(Catalog of Federal and Domestic Assistance Number 84.021, Group Projects Abroad Program)

Dated: June 8, 1992.

Lamar Alexander,

Secretary of Education.

The Secretary amends part 664 of title 34 of the Code of Federal Regulations as follows:

PART 664—HIGHER EDUCATION PROGRAMS IN MODERN FOREIGN LANGUAGE TRAINING AND AREA STUDIES—GROUP PROJECTS ABROAD PROGRAM

1. The authority citation for part 664 is revised to read as follows:

Authority: 22 U.S.C. 2452(b)(6), unless otherwise noted.

2. The section designation "664.2" preceding the heading "Who is eligible to participate in projects funded under the Group Projects Abroad Program?" in the text of the regulations is removed and "664.3" is added in its place.

3. In § 664.14, paragraph (a)(2) is revised to read as follows:

§ 664.14 What is an advanced overseas intensive language training project?

(a) * * *

(2) Project activities may be carried out during a full year, an academic year, a semester, a trimester, a quarter, or a summer.

* * * * *

[FR Doc. 92–15165 Filed 6–26–92; 8:45 am]

BILLING CODE 4000–01–M

federal register

Monday
June 29, 1992

Part VIII

Department of State

Bureau of Consular Affairs

22 CFR Part 43

Documentation of Immigrants (Visas) and Registration for the AA-1 Immigrant Visa Program; Final Rule and Notice

DEPARTMENT OF STATE

Bureau of Consular Affairs

22 CFR Part 43

[Public Notice 1644]

Visas: Documentation of Immigrants Under Section 132 of Public Law 101-649, as Amended

AGENCY: Bureau of Consular Affairs, Department of State.

ACTION: Final rule.

SUMMARY: This final rule amends part 43, title 22 of the Code of Federal Regulations to implement amendments made to section 132 of Public Law 101-649, the Immigration Act of 1990, by Public Law 102-232, the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991.

EFFECTIVE DATE: June 29, 1992.

FOR FURTHER INFORMATION CONTACT: Cornelius D. Scully, Director, Office of Legislation, Regulations, and Advisory Assistance, Visa Office, Department of State, Washington, DC, 20522-0113; (202) 663-1184.

SUPPLEMENTARY INFORMATION:

Background

Public Notice 1614 at 57 FR 15266, April 27, 1992, proposed amendments to title 22, part 43, subpart B of the Code of Federal Regulations. The proposed amendments were required to implement amendments in section 302(b)(6) of Public Law 102-232 which made material changes to section 132 of Public Law 101-649. The changes were discussed in detail in the Notice of Proposed Rulemaking, as were the Department's reasons for the proposed amendments to the regulations. The Department received seven timely comments in response to the Notice of Proposed Rulemaking.

Analysis of comments

Change in Application and Selection Procedure

One commenter complained not about the regulations, but rather about the statutory changes. The commenter felt that the Congress should not have limited competitors to one application per individual and should not have eliminated selection in chronological order. This commenter felt that, in doing so, the Congress had unfairly prejudiced those who had, for a fee, assisted competitors in filing multiple applications and in timing the submission of their applications so as to be as early as possible in the chronological order. The Department is not at liberty to repeal an amendatory act of this kind or to ignore its terms in conducting its business.

Confidentiality of Applications

One commenter requested that the Department provide, by regulation, that applications submitted for the next lottery be strictly confidential and not be used for any purpose other than the lottery itself. The Department received this same comment in connection with the regulations published in 1991 to implement section 132 in its original form. The Department responded at that time that it found no statutory basis for such a regulation and, accordingly, declined to do so. None of the amendments to section 132 in Public Law 102-232 address this issue nor is there any other indication that the Congress considered the question in formulating those amendments. Thus, the Department still fails to find a basis for such a regulation.

Inapplicability of Section 212(e)

One commenter requested that the Department modify its regulations to provide that section 212(e) continue to apply to former exchange visitors whose participation in an exchange visitor program was funded by the United States Government. This commenter pointed out that exchange visitors funded by the United States Government often received substantial training and higher education at considerable expense and that the funds used for this purpose are appropriated funds. The commenter pointed out that participants in such programs are expected to return to their countries for two years so that their countries may benefit from the knowledge and expertise they have acquired at U.S. Government expense.

The Department is not unsympathetic to the argument made by this commenter, but believes that it lacks the authority to promulgate a regulation of the kind requested. Section 212(e) of the Act specifies that an exchange visitor shall be subject to the two-year foreign residence requirement in three situations—(1) if the alien's field of knowledge or expertise has been designated a clearly required in the alien's country of nationality or last foreign residence; (2) if the alien's participation in the exchange visitor program was financed, in whole or in part, by the U.S. Government or by the government of the country of the alien's nationality or last foreign residence; and (3) if the alien participated in an exchange visitor program in which the alien received graduate medical education and training.

Section 302(b)(6)(E) of Public Law 102-232 added to section 132(e) the following—"[i]n addition, the provisions of section 212(e) of such Act [the Immigration and Nationality Act, as amended] shall not apply so as to prevent an individual's application for a visa or admission under this section." The Department finds that language clear and explicit, at least in the sense that it applies to all applicants for AA-1 visas who would otherwise be ineligible to receive an immigrant visa under section 212(e), without regard to the basis on which that section was determined to apply to them.

There appears to be no basis upon which to distinguish between those former exchange visitors subject to the requirements of section 212(e) because of a Country Skills List designation and those subject because of having received graduate medical education and training, on the one hand, and those subject because of funding by the U.S. Government or their government, on the other hand. The Department does not know whether the Congress may have considered such a possibility and rejected it or whether it failed to consider whether or not such a distinction might be appropriate. In any event, it is the Department's opinion that the statutory language, quoted above, does not permit making such a distinction by regulation.

Completeness of Information on Mailing Envelope

One commenter expressed a concern lest an otherwise qualified competitor be disqualified for failure to place all the required information on the mailing envelope and the hope that incomplete information on the envelope would not result in disqualification. Under the regulation as proposed, a competitor would be required to place in the upper left-hand corner of the envelope his or her name, current mailing address and country of chargeability. In the 1992 mail-in period only the country of chargeability had to be placed on the envelope.

In processing the mail received in the 1992 mail-in, the personnel did encounter and accept for processing a few envelopes on which the country of chargeability had not been placed. The decision to process those envelopes was based upon the non-substantive nature of the requirement. The presence or absence of the country of chargeability in no way affected the alien's substantive eligibility to compete. The Department required competitors to place the country of chargeability on the envelope solely to expedite the process

of finding additional natives of Ireland, if the initial registration phase did not produce enough natives of Ireland to meet the statutory requirement.

On the other hand, the requirement for including the complete name and current mailing address is new to the AA–1 program. It was not imposed during the FY–1992 mail-in period. And it is a substantive requirement. The 1989 OP–1 (Berman Diversity) lottery—section 3 of Public Law 100–658—contained a limitation of one application per alien and a sanction—disqualification—if an alien submitted more than one. The Department imposed the requirement for full name and current mailing address on the mailing envelope as the primary method of enforcing this restriction.

As explained in the Supplementary Information which accompanied the notice of proposed rulemaking, the 1991 amendments to section 132 produce a procedure virtually identical with that employed in the OP–1 lottery and, thus, calls for implementation which is also substantially identical. The Department envisions the inclusion of full name and current mailing address on the mailing envelope here as having the same function in this program. Accordingly, an envelope which does not bear that information will be set aside and will not be assigned a sequential number for possible selection under the "at random" procedure described.

Control of Multiple Applications

Several commenters asked for further discussion of the techniques which will be employed to identify multiple applications. One commenter suggested that the information required to be placed on the mailing envelope be expanded to include the applicant's U.S. Social Security Number or its foreign equivalent. This commenter feared that aliens would attempt to circumvent the restriction by using variant names—e.g.; John Louis Doe, J. Doe, John L. Doe, etc.—and/or different mailing addresses.

The Department does not believe that such a safeguard is necessary. As explained above, the Department envisions that the information required to be placed on the mailing envelope will serve as the primary source for detection of multiple applications. It will not, however, be the only way of detecting multiple applications. Once the selection process has been completed, the computer system into which the names of aliens selected will be entered will have the ability to identify duplicate entries.

Also, even if an alien succeeds in avoiding detection at that stage, it is virtually inevitable that he or she will be detected as having submitted more than one application when the apparently different applications are processed by the visa-issuing office. Only if an alien fabricates entirely different identities in which to apply and supports each with fraudulent birth and identification documents will the alien be able to maintain the impostorship throughout the entire process.

Finally, the Department will also be checking the envelopes received, using random sampling techniques, to detect and invalidate multiple applications.

Numerical Limitations

It will be recalled that the Department discussed in some detail the amendments made in 1991 under which visas unused in Fiscal Year 1992 or 1993 would be added to the totals available in Fiscal Year 1993 or 1994, as applicable. One commenter was puzzled about one of the possible outcomes discussed—the possibility that all 40,000 visas could be used in a year but that usage by natives of Ireland could fall short of the 16,000 floor. This commenter believes that, if natives of Ireland fail to use as much as 16,000, the shortfall cannot be used by other selectees, on the ground that the 16,000 is reserved for the sole and exclusive use of natives of Ireland and must go unused if not used by them.

This comment reflects a differing interpretation of the statutory phrase "shall be made available." Section 132(c) includes a requirement that "at least 40 percent of such visas in each fiscal year shall be made available to natives of [Ireland]. Now, making 40 percent of the available visas available to natives of Ireland does not guarantee that natives of Ireland will use 40 percent, since it is not within the Department's power to compel natives of Ireland to whom such visas are made available to accept and make use of them.

As has been explained in detail in earlier regulatory publications on this subject, the Department registered slightly over 20,000 natives of Ireland in the Fiscal Year 1992 mail-in. The Department's expectation was, and remains, that there will be not fewer than 16,000 visa recipients among that group. It is nevertheless conceptually possible that so many natives of Ireland selected last Fall might drop out of the process of personal reasons that the number would fall below 16,000.

The Department does not believe that the statute mandates that the visas which would have been issued to natives of Ireland but cannot be because of their failure to pursue their applications go unused. The Department is attempting to complete allocation of all 40,000 visa numbers for this Fiscal Year by August. If that is possible, then during the month of September, the only allocations which would be made would be those numbers returned unused from prior allocations.

To the extent necessary to reach the 16,000 figure, those reallocations will be made to natives of Ireland. Natives of Ireland ready for allocation but above the 16,000 figure will compete for available visas with all other qualified applicants in priority date order. Thus, if there are enough natives of Ireland ready for visa issuance to reach the 16,000 figure, it will be reached. If there are additional natives of Ireland with competitive priority dates, the figure will exceed the 16,000 figure. If, on the other hand, there are not enough natives of Ireland to reach the 16,000 figure, the available visas will be allocated to other qualified applicants, rather than allow the available visas to go unused.

It should be emphasized that, under this scenario (a highly unlikely one, in the Department's view), any shortfall in usage of the 16,000 by natives of Ireland in either year would be added to the total available for natives of Ireland, whether or not the overall total of 40,000 was increased because of a shortfall in overall usage.

Formatting of Amended Regulations

One commenter commented upon the format of the amendments proposed. This commenter agreed that preserving the original regulations to the extent possible was useful, in terms of maintaining an historical record of the program. This commenter expressed some concern, however, that this format might prove confusing and lead some readers to confuse Fiscal Year 1992 procedures and requirements with those applicable to Fiscal years 1993 and 1994.

The Department agrees that, theoretically, such confusion could arise, but believes that, in fact, it will not. As the Department has emphasized, it will publicize the requirements and procedures as widely as possible, through public notices both in the United States and abroad, and through recorded messages on a dedicated telephone line. This publicity will not be couched in regulatory language, but will rather be formulated in what is hoped to be simple easy-to-understand prose.

Moreover, it will not compare the new requirements and procedures with the former ones. It will simply explain, as clearly as possible, the requirements and procedures for the mail-in period in question. It is the Department's expectation that most of those who are

interested in the program, either for themselves or for others, will get their information from the public notices and/or recorded messages rather than from the published regulations. Accordingly, the Department believes that the format chosen for the regulatory amendments will not produce the confusion which the commenter feared.

Use of Country of Chargeability Rather Than Country of Birth

One commenter requested that it be made clear that applicants are to write the country of chargeability rather than the country of birth on the mailing envelope. The Department notes that the precise regulatory language—in proposed § 43.13(c)(2)—is "the name of the adversely affected country of which he or she is a native * * *." This language is consistent with the regulatory definition of native for this purpose—"born within the territory of a foreign state or entitled to be charged for immigration purposes to that foreign state pursuant to section 202(b) of the Immigration and Nationality Act, as amended."

Thus, the regulatory formulation effectively instructs applicants to write on the envelope the country of chargeability, as the commenter requests. Also, the issue here is similar to that raised immediately above in that most applicants will receive their information about the requirements and procedures not from a study of the regulations themselves, but rather from the public notices and recorded messages. These will be written as clearly as possible, using non-technical language. Accordingly, the Department believes that competitors will not be confused by the usage in the regulations.

Requirement for Typing Information

One commenter specifically expressed concern that the requirement that the application and the information on the mailing envelope be typed would prejudice some applicants who might not have ready access to a typewriter. The commenter also was puzzled by the fact that the proposed regulations allowed for either printing or typing the necessary information, both on the application form and the mailing envelope, while the discussion in the Supplementary Information discussed the necessity for requiring that all information be typed. First, the Department apologizes for any confusion which may have resulted.

The Department did, in fact, intend to propose that all information be typed. This requirement was imposed in the OP-1 lottery at the request of USPS, for operational reasons related to processing the envelopes through the numbering machine. Since the Department envisioned that USPS would number the envelopes during the forthcoming mail-in, the requirement for typing appeared necessary. The failure to specify that in the proposed regulations was inadvertent, a failure in proof-reading.

While the problem of not finding a typewriter seems to be a relatively unlikely one, the Department has nonetheless decided to allow for the information, both on the application and on the mailing envelope to be either typed or legibly printed. The reason for this decision is only partially the comment received and will be discussed in greater detail below.

Procedural Changes

In the discussion which accompanied the notice of proposed rulemaking the Department explained the mechanics of the mail-in and random selection process, as it was then contemplated. At that time, the Department envisioned that USPS would perform the same tasks as it had done in the 1989 OP-1 lottery mail-in—not only sorting and delivering the mail to State Department representatives, but also numbering the envelopes and delivering them in sequential order to facilitate retrieving the envelopes bearing the winning numbers.

Further discussions with USPS and the contractor have led the Department to modify that procedure. The contractor has presented a proposal that it should number the envelopes rather than USPS. The contractor also proposed to purchase machines for numbering the envelopes. The contractor's documentation reflected that, over time, purchase of the machines which would become the property of the Department of State would lower the cost of the mail-in and selection process. The tentative agreement with USPS involved use of the machines which belonged to USPS and included an annual cost for use of the machines as well as other associated costs.

Upon consideration, the Department decided to accept the contractor's proposal rather than perfect an agreement with USPS. The mail-in and selection process which will be followed for the AA-1 program for Fiscal Years 1993 and 1994 will be identical with the process which will be followed, on a permanent basis, beginning with Fiscal Year 1995, for the permanent diversity lottery program established by section 203(c) and 204(a)(1)(G) of the Immigration and Nationality Act, as amended. That fact weighed strongly in the Department's decision to accept the contractor's proposal rather than that of USPS.

In discussions concerning the contractor's proposal, the contractor indicated that having all information typed was not necessary for its purposes. Accordingly, once it was decided to accept the contractor's proposal, there was no further need to require that all information be typed and the idea of imposing such a requirement was abandoned.

As a result, while the procedures will remain as described in the notice of proposed rulemaking, the contractor rather than USPS will be responsible for numbering the qualifying envelopes and arranging them in sequential order to facilitate retrieval after the winning numbers are generated by the computer software developed for that purpose. This procedural change does not require any modification of the proposed regulations, but the Department believes that information of this kind will be of interest to the public.

Final Rule

This final rule adopts the regulations published at 57 FR 15266, April 27, 1992, as proposed with minor editorial changes.

This rule is not considered to be a major rule for purposes of E.O. 12291, nor is it expected to have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. The information collection contained in this rule has been submitted to the Office of Management and Budget in compliance with provisions of the Paperwork Reduction Act of 1980.

List of Subjects in 22 CFR Part 43

Immigrants, Numerical limitations, Registration, Visas

In view of the foregoing, title 22, part 43, subpart B of the Code of Federal Regulations, is amended as follows:

PART 43—VISAS: DOCUMENTATION OF IMMIGRANTS

1. The authority citation for part 43 is revised to read as follows:

Authority: 8 U.S.C. 1104; 8 U.S.C. 1101 note; 8 U.S.C. 1153; 8 U.S.C. 1101(a)(27); Sec. 105 Stat. 1742; 8 U.S.C. 1101.

2. Section 43.13 is amended by adding new paragraph (d) to read as follows:

§ 43.12 Definitions.

* * * * *

(d) The word *Ireland*, when used to refer to the adversely affected foreign state bearing that name, shall mean both

Ireland (Eire) and the districts comprising that portion of the United Kingdom of Great Britain and Northern Ireland known as Northern Ireland; namely, Antrim, Ards, Armagh, Ballymena, Ballymoney, Banbridge, Belfast, Carrickfergus, Castlereagh, Coleraine, Cookstown, Craigavon, Down, Dungannon, Fermanagh, Larne, Limavady, Lisburn, Londonderry, Magherafelt, Moyle, Newry and Mourne, Newtownabbey, North Down, Omagh, and Strabane.

3. Section 43.13 is revised to read as follows:

§ 43.13 Registration.

(a) *Limitations on registration.* (1) *Eligibility to register for Fiscal Year 1992.* An alien shall not be eligible to register for consideration during Fiscal Year 1992 under this section unless he or she is a native of an adversely affected foreign state (as defined in § 43.12 of this subpart) other than Canada.

(2) *Eligibility to register for Fiscal Year 1993 or 1994.* An alien shall not be eligible to register for consideration during Fiscal Years 1993 and 1994 under this section unless he or she is a native of an adversely affected foreign state (as defined in § 43.12 of this subpart).

(3) *Separate applications for each fiscal year.* Applications for registration shall be made separately for each of Fiscal Years 1992, 1993, and 1994, during application periods established by the Department for such purpose. An application for registration submitted during the application period for a fiscal year shall not be retained for consideration with respect to any fiscal year other than the one for which it was submitted.

(4) *Dates of application periods.* The dates of each application period held pursuant to this section shall be announced by the Department by Public Notice in the **Federal Register** and through such other means as will ensure wide dissemination of the information, both within the United States and elsewhere. Applications for registration will be accepted only between 12:01 a.m. on the first day of the application period and Midnight of the last day of the application period. Applications received at any other time will not be considered.

(5) *Single application for Fiscal Year 1993 or 1994.* During the application periods for Fiscal Years 1993 and 1994 only one application may be submitted by, or in behalf of, any alien. If more than one application is submitted by, or in behalf of, any alien during either such application period, all applications submitted by, or in behalf of, that alien during such application period shall be void and the alien shall not be considered for the issuance of an immigrant visa under this subpart during the fiscal year for which the application period was held.

(b) *Place of Registration.* An alien eligible to register pursuant to paragraph (a) of this section who desires to register as an applicant for a visa under section 132 of Public Law 101–649 shall apply for registration by mail. The address to which such applications shall be submitted shall be included in the announcement of the application period provided for in paragraph (a)(4) of this section. Hand-delivered applications, telegrams, or envelopes sent by any means requiring any form of acknowledgement of receipt by the recipient will not be accepted. Only one application may be submitted in each envelope and, if an envelope contains two or more applications, only the first application removed from the envelope will be accepted and processed.

(c) *Application.* (1) *Form of application.* An application for registration under this section shall consist of a sheet of paper on which shall be typed or legibly printed in the Roman alphabet the applicant's name, date of birth, place of birth (including city and county, province or other political subdivision, and country), name(s), date(s) and place(s) of birth of spouse and child(ren), if any, current mailing address, and location of consular office nearest to current residence or, if in the United States, nearest to last foreign residence prior to entry into the United States.

(2) *Marking and size of mailing envelope.* (i) *Fiscal Year 1992.* An alien who submits an application for consideration during Fiscal Year 1992 as provided in this subpart shall type or print legibly in the Roman alphabet the name of the adversely affected country of which he or she is a native on the upper lefthand corner of the front of the envelope in which the application is mailed.

(ii) Fiscal Years 1993 and 1994. An alien who submits an application for consideration in either Fiscal Year 1993 or 1994 shall type or print legibly in the Roman alphabet the address to which the application is mailed and, in the upper left-hand corner of the envelope, the name of the adversely affected foreign state of which he or she is a native, his or her name and current mailing address. Envelopes used to submit applications for consideration during either Fiscal Year 1993 or Fiscal Year 1994 shall be not larger than 9½ by 4½ inches (approximately 24 cm by 11 cm) and not smaller than 6 by 3½ inches (approximately 15 cm by 9 cm) in size.

(d) *Derivative registration.* An application for registration submitted in accordance with paragraphs (a), (b) and (c) of this section shall be considered to include automatically the spouse or child of the applicant, whether or not such spouse or child is named in the application if, in the case of a spouse, the marriage to the applicant took place prior to the applicant's admission for permanent residence or, in the case of a child, the child is the issue of a marriage which took place prior to the applicant's admission to the United States for permanent residence.

4. Section 43.14 is revised to read as follows:

§ 43.14 Order of consideration.

(a) *Registration for consideration during Fiscal Year 1992.* Applicants shall be registered for further consideration during Fiscal Year 1992 under this subpart in the chronological order in which their applications are received from the United States Postal Service mail-handling facility. Applicants shall be registered only in a number sufficient to ensure usage of all immigrant visa numbers available during Fiscal Year 1992 and to ensure that not fewer than 40 percent of such visa numbers are made available to natives of Ireland.

(b) *Registration for consideration during either Fiscal Year 1993 or Fiscal Year 1994.* All envelopes received at the mailing address specified as provided in § 43.13(b) of this subpart during the period specified as provided in § 43.13(a)(4) of this subpart and meeting the requirements set forth in § 43.13 of this subpart shall be assigned a number in order of receipt. Upon completion of the numbering of all envelopes, all numbers assigned shall be rank-ordered at random by a computer using standard computer software for this purpose. The Department shall then select in the rank order determined by the computer program a quantity of envelopes sufficient to ensure usage of all immigrant visas authorized under section 132 of Public Law 101–649 for the fiscal year in question and to ensure that not fewer than 40 percent (plus the amount, if any, by which usage of immigrant visas by natives of Ireland in the preceding fiscal year was less than 40 percent of that year's limitation) of such visa numbers are made available to natives of Ireland. The envelopes shall then be opened and the applicant assigned the rank order number determined by the computer program.

(c) *Priority date.* (1) *Fiscal Year 1992.* An alien's priority date for consideration of his or her application

under this subpart during Fiscal Year 1992 shall be the date, hour, minute, and second (within the application period provided for in § 43.13(a)(2) of this subpart) of the receipt and processing of the application by the Visa Services of the Department of State.

(2) *Fiscal Year 1993 or Fiscal Year 1994.* The rank order number assigned to an applicant as provided in paragraph (b) of this section shall serve as the alien's "priority date" for further consideration and processing during either Fiscal Year 1993 or Fiscal Year 1994, as applicable.

(d) *Waiting lists.* The Department shall establish two waiting lists of applicants whose applications have been received and processed for consideration under this subpart. With respect to Fiscal Year 1992, both lists shall be maintained in the chronological order of priority dates established as provided in paragraph (c) of this section. With respect to Fiscal Year 1993 and Fiscal Year 1994, both lists shall be maintained according to the rank order number assigned as provided in paragraph (b) of this section. One list shall consist of applicants who are natives of Ireland. The other list shall consist of all applicants who are natives of adversely affected foreign states.

(e) *Further processing.* The Department shall inform applicants registered pursuant to paragraphs (a) or (b) of this section of the steps necessary to meet the requirements of INA 222(b) in order to apply formally for an immigrant visa.

5. Section 43.15 is revised to read as follows:

§ 43.15 Control of numerical limitation.

(a) *Centralized control.* Centralized control of the numerical limitation specified in section 132(a) of Public Law 101–649 is established in the Department. In order to effect this control, the Department shall limit the number of immigrant visas and the number of adjustments of status that may be granted to aliens applying under section 132 of Public Law 101–649 to (1) In Fiscal Year 1992, a number not to exceed 40,000; (2) in Fiscal Year 1993, a number not to exceed 40,000 plus the total, if any, of immigrant visas authorized for Fiscal Year 1992 but not used during that year; (3) in Fiscal Year 1994, a number not to exceed 40,000 plus the total, if any, of immigrant visas authorized for Fiscal Year 1993 but not used during that year; and (4) a number not to exceed, in any month of any such fiscal year, 10 percent of the total limitation for the fiscal year plus any balance remaining from authorizations for preceding months in the same fiscal year.

(b) *Allocation of immigrant visa numbers.* (1) *General.* Within the limitations specified in paragraph (a) of this section, the Department shall allocate immigrant visa numbers for use in connection with the issuance of immigrant visas and the granting of adjustment of status.

(2) *Allocations during Fiscal Year 1992.* With respect to Fiscal Year 1992, such allocation shall be based upon the chronological order of priority dates of applicants as established pursuant to §§ 43.13(a) and 43.14(c)(1) of this subpart, except that allocations shall be made in such a manner as to ensure that, to the extent natives of Ireland have become documentarily qualified, not less than 40 percent of the visa numbers allocated during any fiscal year are allocated to natives of Ireland. To the extent that allocations of visa numbers to natives of Ireland must be made separately to ensure compliance with the requirement that at least 40 percent of the total be allocated to such aliens, such allocations shall also be made to such aliens in the chronological order of their priority dates.

(3) *Allocations during Fiscal Year 1993 and Fiscal Year 1994.* With respect to Fiscal Year 1993 and Fiscal Year 1994, such allocations shall be based upon the rank order number of applicants as established pursuant to §§ 43.13(b) and 43.13(c)(2) of this subpart, except that such allocations shall be made in such a manner as to ensure that, to the extent that natives of Ireland have become documentarily qualified, not less than 40 percent (plus the amount, if any, by which usage of immigrant visas by natives of Ireland in the preceding fiscal year was less than 40 percent of that year's total limitation) of the visa numbers allocated during any fiscal year are allocated to natives of Ireland. To the extent that allocations of visa numbers to natives of Ireland must be made separately to ensure compliance with this requirement, such allocations shall also be made to such aliens in the sequential order of their rank order numbers.

6. Section 43.17 is revised to read as follows:

§ 43.17 Eligibility to receive a visa.

The eligibility of an applicant for a visa under section 132 of Public Law 101–649 shall be determined as provided in the Immigration and Nationality Act, as amended, and Parts 40 and 42 of Subchapter E—Visas except that—

(a) Such an applicant shall be deemed to be ineligible to receive a visa under INA 212(a)(4) of the Immigration and Nationality Act, as amended, if he or she does not present to the consular officer a firm commitment for employment in the United States for a period of at least one year, as defined in § 43.12(b); and

(b) Section 212(e) of the Immigration and Nationality Act, as amended, shall not apply to such an applicant.

Dated: June 10, 1992.

Elizabeth M. Tamposi,

Assistant Secretary for Consular Affairs.

[FR Doc. 92–15178 Filed 6–26–92; 8:45 am]

BILLING CODE 4710–06–M

DEPARTMENT OF STATE

Bureau of Consular Affairs

[Public Notice 1645]

Registration for the AA–1 Immigrant Visa Program Under Pub. L. 101–649, as Amended

ACTION: Notice of registration for the second year of the AA–1 Immigrant Visa Program.

This public notice provides information on the application procedure for the 40,000 immigrant visas to be made available in Fiscal Year 1993. This notice is issued under section 132 of the Immigration Act of 1990, as amended by the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991. A final rulemaking related to this notice is being published elsewhere in this issue of the **Federal Register.**

AA–1 Immigrant Visa "Lottery" Program

Information on the Application Procedure for the 40,000 Immigrant Visas To Be Made Available in the AA–1 Category During Fiscal Year 1993

Section 132 of the Immigration Act of 1990, as amended by Public Law 102–232, provides 40,000 immigrant visas for each of fiscal years 1992, 1993, and 1994 to natives of the countries and areas from which immigration was previously identified as having been "adversely affected" by the 1965 immigration legislation. This program is identified by the visa symbol AA–1, and is informally known as the "visa lottery". The law specifies that there must be a separate registration for each year's AA–1 visas. The application period for the first year's visas was completed during 1991, and those visas are being issued until September 1992. This information concerns the application period during 1992 for visas to be issued during fiscal year 1993, the second year of the program.

Who Qualifies for Registration Under the AA–1 Program?

Natives (as that term is explained in question 1 of this Notice) of the following countries and areas are entitled to apply for AA–1 visas:

Albania
Algeria
Argentina
Austria
Belgium
Canada
Czechoslovakia
Denmark
Estonia
Finland
France
Guadeloupe
New Caledonia
Germany
Great Britain
Northern Ireland
Bermuda
Gibraltar
Hungary
Iceland
Indonesia
Ireland
Italy
Japan
Latvia
Liechtenstein
Lithuania
Luxembourg
Monaco
Netherlands
Norway
Poland
San Marino
Sweden
Switzerland
Tunisia

How and When Will Applications for AA–1 Status Be Accepted?

The application period for registration for the visas to be issued during Fiscal Year 1993 (i.e., from October 1992 through September 1993) Will Begin at 12:01 a.m. (Washington, DC time) on Wednesday, July 29, 1992, and Will End at Midnight, on Friday, August 28, 1992. Applications Must Be Mailed to the Following Address: AA–1 Program, P.O. Box 1993, Dulles, VA 21301–1993, U.S.A.

Typed or Clearly printed at the Upper Left Hand Corner of the Front of the Envelope Must Be the Applicant's Native Country Or Area (from the list above). Below the country must be the Name and Mailing Address of the Applicant as they are shown on the application.

Example: Northern Ireland, George Q. Public, 1234 Any Street, Apt. 5, Center City, NJ 10001

Only One Application May Be Submitted by or for each Applicant During This Registration Period. (Submission of More Than One Application Will Disqualify the Person From Registration.) Applications For Registration Will Be Selected Strictly in a Random Order From Among all of Those Received During the Specified Period.

Applications must be sent to the address above by regular mail or air mail, and may be mailed from within the United States or from abroad. Any mail requiring signed receipt such as registered mail, hand-delivered applications, telegrams, or applications sent by courier or any other means will not be eligible for the visa lottery. Applications received at the post office box before or after the application period or deivered to any other address will not be considered for registration. Only One Application May Be Included in Each Envelope.

Size of Envelope

The envelope in which each application is mailed must be between 6 inches and 9½ inches (15 cm to 24 cm) in length, and between 3½ inches and 4½ inches (9 cm to 11 cm) in width. This is necessary to assist the automated processing of the mail.

What Information Must Be Included On the Application For Registration?

There is no special application *Form;* The request for registration may simply be a sheet of paper which provides the necessary information *typed* or *clearly printed* (in the Roman alphabet) in the following format:

A. *Applicant's Full Name.* Last Name, First Name and Middle Name.

(Underline Last Name/Surname/Family Name) Example: *Public,* George Quincy.

B. *Applicant's Date and Place of Birth.* Date: Day, Month, Year. **Example:** 15 November 1961.

Place: City/Town, District/County/Province, Country. **Example:** Toronto, Ontario, Canada.

C. *Name, Date and Place of Birth of Applicant's Spouse and Children, if Any.*

The spouse and child(ren) of an applicant who is registered for AA–1 status are automatically entitled to the same status. The spouse or child does NOT need to be born in one of the countries listed above. To obtain a visa on the basis of this derivative status, a child must be under 21 years of age and unmarried. **Note:** Do NOT list parents as they are not entitled to derivative status.

D. *Applicant's Mailing Address.*

The mailing address must be clear and complete, since it will be to that address that the notification letter for the persons who are registered will be sent. A telephone number is optional.

E. *United States Consular Office to Which Visa Registration Should Be Sent.*

Ordinarily, this will be the immigrant visa issuing consular office nearest the applicant's place of residence. If the applicant is in the United States, indicate the immigrant visa issuing office in the country of last previous residence outside the U.S. If the applicant does not know which U.S. consulates issue immigrant visas, list the city and country of the applicant's current residence abroad, or the city and country of last previous residence outside the U.S., and the processing center will identify the proper immigrant visa issuing consular office where the visa registration will be sent for processing.

Persons who claim alternate foreign state chargeability should also include a statement to that effect on the application. (See question No. 1 on page 3.) *Only One*

Application May Be Submitted For Each Applicant During This Registration Period. Multiple Applications Will Disqualify an Applicant.

There are no other requirements for submitting an application for registration apart from what is specified above. It is not necessary to include an offer of employment with a registration request. (Applicants who are registered for AA–1 status will need to present an offer of employment in the U.S. at the time of formal visa interview. See question 8 of this Notice for more information on this point.) There is no fee for submission of an AA–1 registration request. A signature is not required on the application.

Frequently Asked Questions About the AA–1 Registration

1. How Is the Term "Native" Defined? Are There Any Bases Upon Which Persons Who Have Not Been Born In a Qualifying Country May Qualify for Registration?

"Native" means both someone born within one of the countries listed above and someone entitled to be "charged" to such country under the provisions of section 202(b) of the Immigration and Nationality Act. An applicant for AA–1 registration may be charged to the country of birth of a spouse; a child can be charged to the country of birth of a parent; and an applicant born in a country of which neither parent was a native or a resident at the time of his/her birth may be charged to the country of birth of either parent. An applicant who claims the benefit of alternate chargeability must include a statement to that effect on the application for registration, and must show the country of chargeability on the upper left hand corner of the envelope in which the registration request is mailed.

2. Can Natives of Canada Apply For AA–1 Registration?

Yes, for this and the next registration period, natives of Canada are entitled to apply for registration for AA–1 visas.

3. What If a Person's Birth Place Was In an "AA–1" Country at the Time of Birth, But Due to Changes in Boundaries Is No Longer Within a Qualifying Country?

For a person to be considered to have been born in a qualifying country, the place of birth must be within the *boundaries currently recognized by the U.S.*

4. May Persons Who Are In the U.S. Apply For Registration?

Yes, an applicant may be in the U.S. or in another country, and the application may be mailed in the U.S. or abroad.

5. Is Each Applicant Limited to Only One Application During This AA–1 Registration Period?

Yes, for this and for the next AA–1 registration, the law allows only one application by or for each person; Submission of more than one application will disqualify the person from registration.

6. May a Husband and a Wife Each Submit a Separate Application?

Yes, a husband and a wife may each submit one application for registration; if either is registered, the other would be entitled to derivative status.

7. Must Each Applicant Submit His/Her Own Request, Or May Someone Act On Behalf of an Applicant?

Applicants may prepare and submit their own request for registration, or have someone act on their behalf. Regardless of whether an application is submitted by the applicant directly, or by a relative, friend, attorney etc., only one application may be submitted in the name of each person. There is no requirement that an applicant sign the registration request. Only one notification letter will be sent for each case registered, to the address on the application.

8. What Are the Requirements For an Offer of Employment In the United States?

An offer of employment should not be submitted as part of the registration application. Applicants who are successfully registered for AA–1 status will need to present an employment offer at the time of visa issuance. Applicants must submit evidence of a commitment for full-time employment in the U.S. at the visa interview. Two or more part-time jobs will meet this requirement if, taken together, they constitute full-time employment, as long as the applicant submits letters from each employer supporting the job offer. The offer may come from a business or any other institution or organization in the United States, or from a private individual. Evidence of existing self-employment in the United States can meet the offer of employment requirement; a plan to create one's own business in the future, even in the immediate future, would not qualify, however.

9. How Will Cases Be Registered?

All mail received will be individually numbered. After the end of the application period, a computer will randomly select cases from among all the mail received. The first letter randomly selected will be the first case registered, the second letter selected the second registration, etc. It makes no difference whether an application is received early or late in the application period. When a case has been registered, the applicant will immediately be sent a notification letter, which will provide appropriate visa application instructions. The registration will at the same time be forwarded to the consular office which will process the case; all subsequent visa processing information will be obtained by the applicant directly from that consular office.

10. Will Applicants Who Are Not Registered Be Informed?

No, applicants who are not registered will receive no response to their registration request. Only those who are registered will be informed. All notification letters are expected to be sent within about three months of the end of the application period. Anyone who does not receive a letter will know that his/her application has not been registered.

11. How many Applicants Will Be Registered?

A total of about 50,000 persons, both principal applicants and their spouses and children, will be registered. Since it is likely that some of the first 40,000 persons who are registered will not pursue their cases to visa issuance, this larger figure should ensure use of all AA–1 numbers, but it also risks some registrants' being left out. All applicants who are registered will be informed promptly of their place on the list. Each month visas will be issued, according to registration lottery rank order, to those applicants who are ready for visa issuance during that month. Once all of the fiscal year 1993 visas have been issued, the program for the year will end. (In the event there are any numbers from the worldwide or Ireland 1992 AA–1 limits which are unused for visa issuance during that fiscal year, such numbers will be added to the AA–1 limits for fiscal year 1993.) Registered applicants who wish to receive visas must be prepared to act promptly on their cases.

The law specifies that at least 40% (i.e., 16,000) of each year's AA–1 visas are to be made available to natives of Ireland. Natives of Northern Ireland are entitled to benefit from the 40% of the AA–1 numbers provided for Ireland. So that Northern Ireland natives are properly identified during registration

processing, they should show their area of birth as NORTHERN IRELAND on their application and envelope.

12. Is There a Minimum Age For Applicants For Registration Under the AA–1 Program?

There is no minimum age for submission of an application for registration, but the requirement of a firm commitment of employment for each principal applicant at the time of visa issuance will effectively disqualify anyone who is under the legal working age.

13. Will There Be Any Special Fee For Registration In the AA–1 Category?

There is no fee for submitting a request for registration, and no fee should be included with the letter sent to the post office box indicated above. There will be a special fee of US$25.00 per case registered, however, to cover the cost of processing the AA–1 registrations. This fee will be collected by the consular office to which the case is sent for processing, when the applicant responds to the registration notification letter.

14. Are AA–1 Applicants Specially Entitled to Apply For a Waiver of Any of the Grounds of Visa Ineligibility?

The law states that, for AA–1 visa applicants, the Immigration and Naturalization Service shall waive the ground of visa ineligibility based on misrepresentation on an application for a visa or for entry into the U.S. (INA 212(a)(6)(C)), unless there is a finding that such waiver is not in the national interest. In addition, the law automatically waives the two year foreign residence requirement on certain former exchange visitor ("J") visa holders under INA 212(e). Also, the requirement for a labor certification (INA 212(a)(5)(A)) does not apply. In all other respects, persons registered under the AA–1 program must meet the standard eligibility requirements before a visa can be issued.

15. May Applicants Who Are Already Registered For an Immigrant Visa In Another Category Apply In This Registration For the AA–1 Category?

Yes, such persons may seek AA–1 status as well.

16. How Long Do Applicants Who Are Registered On the Basis of This Application Period Remain Entitled to Apply For Visas In the AA–1 Category?

Under the law, persons registered following this AA–1 application period are entitled to apply for visa issuance only during fiscal year 1993, i.e., from October 1992 through September 1993. There is NO carry-over of benefit into another year for persons who are registered but who do not obtain visas during FY-1993. A separate application period must be held for each year's AA–1 visas prior to the start of the respective fiscal year. There is no restriction on a person's applying for AA–1 status during each of the three application periods.

Note: There is absolutely no advantage to mailing early, or mailing from any particular locale. Every application received during the mail-in period will have an equal random chance of being selected. However more than one application per person will disqualify the person from registration.

Related Final Rule

As indicated in the preamble, a final rule pertaining to this notice appears in this issue of the **Federal Register** and contains detailed information regarding the AA–1 program.

Dated: June 23, 1992.

Elizabeth M. Tamposi,

Assistant Secretary for Consular Affairs.

[FR Doc. 92–15179 Filed 6–26–92; 8:45 am]

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federal register

Monday
June 29, 1992

Part IX

Department of Labor

Employment and Training Administration

National Youth Apprenticeship Grant Solicitation; Notice

DEPARTMENT OF LABOR

Employment and Training Administration

National Youth Apprenticeship Grant Solicitation

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: The U.S. Department of Labor (DOL), Employment and Training Administration (ETA), announces the National Youth Apprenticeship Grant Solicitation. This grant solicitation is made in accordance with all Department of Labor Youth Apprenticeship activities to strengthen the transition of America's youth from school to work. Grants will be made under title IV, of the Job Training Partnership Act (JTPA) on a competitive basis.

DATES: Applications for grant awards will be accepted commencing June 29, 1992. The closing date for receipt of applications shall be August 28, 1992, at 2 p.m. (Eastern Time) at the address below.

ADDRESSES: Applications shall be mailed to Division of Acquisition and Assistance, Attention: Laura Cesario, Reference: SGA/DAA 92-012, Employment and Training Administration, U.S. Department of Labor, room C-4305, 200 Constitution Avenue, NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Laura Cesario. Telephone: (202) 535-8702 (this is not a toll-free number).

SUPPLEMENTAL INFORMATION: The U.S. Department of Labor (DOL), Employment and Training Administration (ETA), announces the National Youth Apprenticeship Grant Solicitation. This grant solicitation is made in accordance with all Department of Labor Youth Apprenticeship activities to strengthen the transition of America's youth from school to work. Grants will be made under title IV, of the Job Training Partnership Act (JTPA) on a competitive basis.

This announcement consists of six sections. Section A provides the purpose of the demonstration projects under title IV of the Job Training Partnership Act. Section B describes the application process and provides information regarding basic eligibility requirements. Section C provides supplemental information on the application, the period of grant performance and options for grant extensions. Section D provides the background to this solicitation and presents the project summary. Section E identifies the specific rating criteria for proposals that have met the basic eligibility requirements. Section F describes the reporting requirements.

Section A.—Purpose

The Employment and Training Administration (ETA) of the Department of Labor (DOL) has set forth a broad outline of Youth Apprenticeship to assist the nation in developing a strong system to connect school and work. The grants will be made under Title IV, of the Job Training Partnership Act (JTPA) on a competitive basis to conduct a series of National Youth Apprenticeship Programs designed to test and replicate the basic youth apprenticeship model with room for state and local variations as needed.

Part I

These projects will support the National Youth Apprenticeship Act of 1992 proposed by the President. The Youth Apprenticeship Programs to be developed will correspond to the following criteria for youth apprenticeship as outlined in the National Youth Apprenticeship Act.

A. Academic Instruction which consists of:

—A program of study which meets State education standards;
—Instruction to attain academic proficiency in at least the five core subjects of English, mathematics, history, science, and geography consistent with voluntary national standards; and
—Where appropriate, modifications to curriculum components to increase the relevance of instruction to the workplace.

B. Work-Based Learning which consists of:

—Instruction in occupationally specific knowledge, skills, abilities, based on appropriate nationally accepted industry standards;
—A planned program of structured job training including tasks to be mastered;
—Development of sound work habits and behaviors; and
—Instruction in general workplace competencies, including, where appropriate, the ability to manage resources, work productively with others, acquire and use information, understand and master systems and work with technologies.

C. Work-Site Learning and Experience which consists of:

—Helping the youth apprentice achieve academic requirements;
—Helping the youth apprentice achieve the work-based learning requirements;
—Paid work experience; and
—Otherwise fulfilling the employer commitments in the youth apprenticeship agreement.

D. A Youth Apprenticeship Agreement which includes the following components:

—A commitment by youth apprentices and parents to meet and support the requirements of the youth apprenticeship programs;
—A commitment by employers to support and arrange for all the above youth apprenticeship components, including providing a mentor;
—A commitment by the school to support the youth apprenticeship components including ensuring close coordination between academic instruction, work-based learning, and worksite experience; and
—a provision setting forth the educational and occupational credentials to be obtained, the wage rate, and other provisions of the youth apprenticeship.

E. Information and Guidance consisting of a formal method for advising the youth apprentice of:

—Occupational and career opportunities, work experience requirements, and any decision necessary for exercising options for post-secondary educational and career-specialization, including formal registered apprenticeship programs under the National Apprenticeship Act;
—The methods and frequencies of assessing achievement of job related competencies and performances in the workplace; and
—The job description.

Part II

Awards

The Department will make multiple grant awards for demonstration projects from a budget of approximately $2.5 million. The maximum amount of any of these grants is expected to be $250,000. No application in excess of $250,000 will be considered.

Should funds become available, ETA may make additional awards later in the year (PY 1992).

Section B.—Application Process

Part I. Eligibility

A. Eligible Applicants

This solicitation is opened to public, profit and non-profit organizations. Any award made as result of this solicitation will be non-fee bearing.

B. Basic Eligibility Requirements

The applicant's proposal must incorporate all of the following basic elements to be eligible for consideration under this SGA (Solicitation for Grant Application). Applicants must address each of the elements in clearly identified sections within the proposal and on a separate fact sheet to be submitted with the proposal.

1. Evidence of broad partnerships representing education, business and industry, labor, and community in advisory and management roles.

2. A program design which includes:

—Consultation with the local private industry councils to ensure that the program meets local labor market demands, and provides youth apprentices with broad-based competencies and transferable skills that facilitate career progression within the occupational areas which form the focus of student learning;

—School partners which ensure that the youth apprenticeship program is operated as per state-approved criteria and applicable education and labor standards, that support services are provided, that students and teachers will have flexible schedules allowing for work-site learning, and that academic instruction, work-based learning, and worksite learning and experience will be integrated;

—Local employers, working in collaboration with labor organizations where appropriate, who assist in job analyses and curriculum creation, employ and pay youth in work-site learning and experience positions, help the youth apprentice acquire necessary skills and knowledge in an orderly sequence, make available to the youth apprentice job progression through normal skill levels, provide a workplace mentor, provide feedback to the school on individual progress, and make reasonable efforts to employ the youth apprentice upon successful completion of the program; and

—The criteria and components of youth apprenticeship as outlined in section A., part I.

3. Linkage to other State and local initiatives for school restructuring and reform, as evidenced by, but not limited to, the following:

—The signed endorsement of the proposal by the State's chief school officer;

—A description of any enabling legislation for youth apprenticeship in the state or of work towards establishing such legislation;

—A description of resources, including the source of such resources, which the State, local government, schools, employers and other partners intend to commit to the plan;

—An outline of the State's efforts to adopt and the local school's efforts to implement (1) standards of academic achievement in at least the five core subjects of English, mathematics, science, history and geography, consistent with any established standards for youth apprenticeship; and (2) standards of achievement required for entry into occupations for which students are prepared, consistent with available industry standards and locally identified workplace needs; and

—A statement of the formal relationship, if any, between youth apprenticeship programs and programs funded by the Carl D. Perkins Vocational Education Act including Tech Prep and the Job Training Partnership Act.

4. Delineation of steps in the recruitment of and marketing to student participants.

5. A description of plans for assisting schools and local employers in job analyses, curriculum development, and in staff development for school and employer staff directly responsible for curriculum creation and youth apprentice supervision and instruction.

6. A description of the method by which the occupational areas to be focused on were chosen including labor market data and information on any assistance provided to small and medium sized business and to schools on forming consortia to carry out the project.

7. An outline of the approach and timetable to be followed in implementing the youth apprenticeship program.

8. Evaluation plan demonstrating the evaluation as detailed in section D., part II., E.

Part III. Closing Date

The closing date for receipt of proposals will be August 28, 1992, at 2 p.m. (Eastern Time) at the address below.

U.S. Department of Labor, Employment and Training Administration, Division of Acquisition and Assistance, 200 Constitution Ave., NW., room C–4305, Washington, DC 20210, Attention: Laura Cesario, Reference: SGA/DAA Number 92–012.

Section C.—Supplemental Information

Part I. Submission of Proposal

An original and three (3) copies of the proposal shall be submitted. The proposal shall consist of two (2) separate and distinct parts:

—The first part shall contain the Standard Form (SF) 424, "Application for Federal Assistance", and SF 424A, "Budget" (appendix A). Also, the budget shall include on a separate page(s) a detailed cost analysis of each line item in the budget.

—The second part shall contain a technical proposal that demonstrates the offeror's capabilities in accordance with the Statement of Work in section D. No cost data or reference to price shall be included in the technical proposal.

Part II. Late Proposals

Any proposal not reaching the designated place, by the specified time and date of delivery requirements will not be considered, unless postmarked five days prior to the closing date. The term "Postmark" means a printed, stamped or otherwise placed impression (exclusive of postage meter machine impression) that is readily identifiable without further action as having been supplied or affixed on the date of mailing by employers of the U.S. Postal Service.

Part III. Hand Delivered Proposals

It is preferred that the proposals be mailed five days prior to the closing date. However, hand delivered proposals must be received by 2 p.m., (Eastern Time) by August 28, 1992. Telegraphed and/or faxed proposals will not be honored. Failure to adhere to the above instructions will be a basis for a determination of non-responsiveness.

Part IV. Period of Performance

The period of performance will be *24* months from the date of grant execution. It is anticipated that approximately *$2,500,000.00* will be disbursed accordingly. The maximum grant award is expected to be *$250,000.*

Part V. Option to Extend

Based on the availability of funds, effective program operation and the need of the Department, the grant(s) may be extended for up to two additional years.

Section D.—Government's Requirement/Statement of Work

Part I.—Background

The recently published America 2000 is the President's education strategy to help America move itself toward the National Education Goals by improving education and allowing the United States to remain competitive in human resource development. The Department of Labor has a special role in working toward the goals of America 2000. With

he Department of Education, DOL is working directly on Track III ("Transforming America into a 'Nation of Students' ") of America 2000. The Department of Labor's Youth Apprenticeship initiative directly supports National Education Goal 5—ensuring that every adult American will be literate and possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship.

Improving the quality of entry-level workers is a critical element in improving the overall quality of the national workforce if American businesses are going to compete effectively in the world marketplace. Each year almost half of the young people who leave high school enter the labor market directly, rather than pursuing post-secondary education. Compared to our foreign competitors, the United States devotes little attention to assisting youth in making the transition from school to work. The Departments of Labor and Education have been exploring ways to strengthen the connections between school and work. Towards this end, the Secretary of Labor and the Secretary of Education co-sponsored a national conference, "The quality connection: Linking Education and Work." At the conference, the foundation was laid for the development of the following principles of an American system of school to work connection, including youth apprenticeship:

—Motivate Youth: to stay in school and become productive citizens.
—Set High Standards: promote higher academic performance levels.
—Link Work and Learning: link classroom curriculum to worksite learning and work experience.
—Ready Students for Work: enhance the participants' prospects for immediate employment after leaving school on paths that provide significant opportunity for continued education and career development.
—Engage Employers: promote employer participation in the education of youth to insure development of a skilled, flexible, entry-level work force.

The national conference developed the following five key school-to-work issues that need to be addressed in order to strengthen the educational delivery system and provide it with the flexibility needed to train students to participate effectively in the workforce:

—Strengthen the involvement of the private sector in the education-work connection;
—Ensure work-bound youth a range of choices in their career development;
—Establish relevancy of work-connected learning to the educational setting;
—Agree to key characteristics of a model school-to-work transition program; and
—Establish a system of accountability as part of the school-to-work transition efforts.

The above principles and issues continue to guide both the Department of Labor's and the Department of Education's efforts to improve the school-to-work transition, although each Department is emphasizing different approaches. The Department of Education is focusing its efforts on bringing together proven elements of school-to-work transition projects into a single comprehensive system.

The Department of Labor is focusing its demonstration efforts on grantees developing Youth Apprenticeship Programs. The two Departments believe that their efforts are complementary rather than competitive or duplicative. Accordingly, both the Departments of Labor and Education will continue to closely coordinate their activities.

Part II.—Project Summary

A. Organization of Project

The Department of Labor seeks to fund Youth Apprenticeship Programs which incorporate the criteria for youth apprenticeship outlined in section A., part I., including Academic Instruction, Work-Based Learning, Work-Site Learning and Experience, the Youth Apprenticeship Agreement, and Information and Guidance. In addition the Program must meet all of the Basic Eligibility Requirements outlined in section B., part I, B.

B. Design and Development

The grantees will be responsible for fully developing a comprehensive Youth Apprenticeship Program for work-bound youth which incorporates the Basic Eligibility Requirements outlined in section B., part I, B.

—The design of the methodology should clearly identify the needs of high skill, high wage workplaces for skilled workers, and the potential for youth entering the labor market and especially for youth not intending to enter college to meet these needs; and should establish relevant objectives related to these issues;
—The program should be designed to serve the broad population of school-age youth who may not go on to college, but not excluding youth who want to go on to college, and not be limited to specific segments within that broad population; and
—The design should include the development of the roles to be played by each of the partners in the project.

The Department plans to provide assistance to the grantees regarding staff development, job skills analysis, new school and work-site structure and curricula, and new types of assessment.

C. Implementation

Applicants receiving a grant will be responsible for implementing and coordinating the Youth Apprenticeship Program and ensuring that the Program's Academic Instruction, Work-Based Learning, Work-Site Learning and Experience, Youth Apprenticeship Agreement, and Information and Guidance operate effectively as per the criteria for youth apprenticeship outlined in section A., part I.

Grantees will also be responsible for developing broad partnerships and sustaining the participation of program partners, maintaining linkages to other State and local initiatives, recruiting of students, marketing, technical assistance to schools and local employers, labor market and job analyses, and an evaluation as outlined in the basic eligibility guidelines, section B., part I, B.

Other implementation activities will include, but not be limited to, directing day-to-day program operation; assessing and certifying participant competencies in conjunction with program partners; and all record keeping. Grantees will be expected to disseminate information on the program results to interested parties.

D. Cost Sharing

The cost for the demonstration projects should be borne primarily by the program partners. The Department intends that grants awarded through this solicitation will provide "seed" money to assist in defraying start-up, and some operational, costs of the projects. The applicant should submit copies of agreements reached with the organizations participating in the demonstration project which include commitment to providing financial and in-kind support to the program. Preference will be given to grantees who provide a greater share of non-grant monies to the project.

E. Monitoring/Evaluation

The grantees will be responsible for monitoring the project and for conducting an evaluation of its effectiveness. The program evaluation should include, but not be limited to:

—The role and participation of each collaborative partner as per section B.,

part I. B., 1, and as per the youth apprenticeship agreement.
—Each partner's level of satisfaction with the program and the benefits derived;
—The extent of linkages to other State and local initiatives;
—Planning, administration, staffing, and organization as they effect program success and replicability;
—The effectiveness of the marketing and recruiting process;
—The extent and effectiveness of technical assistance to schools and local employers;
—The extent and effectiveness of labor market and job needs analyses in selecting occupations, creating academic instruction, work-based learning, work-site learning and experience, and in providing information and guidance;
—The effectiveness and operation of the program's academic instruction, work-based learning, work-site learning and experience, youth apprenticeship agreement, and information and guidance components;
—Cost factors such as cost/benefit analysis for schools, employers and society;
—The effectiveness and use of student assessment and certification;
—Program effectiveness in the basic areas of enrollment, completions, placement rate in target jobs, drop-out and withdrawals, participant retention in jobs, wage rates, and skills acquisition; and
—Prospects for replicability.

In addition to the grantee's evaluation, there will be a national evaluation of the program's effectiveness by an independent evaluator. Grantees will be required to participate in the national evaluation by making data available and by submitting individual project evaluation reports. Grantees will be guided in data collection and outcome measurement by the national evaluator.

F. Technical Assistance

Technical assistance will be provided to grantees by technical assistance experts under a "Support Contract." Technical support will be provided through consultation with each grantee on needs and interests within the following categories or possibly in other areas of critical concern: building partnerships; linkages to other State and local initiatives; marketing and recruitment of participants; staff development for schools and local employer staff and mentors; labor market and job analyses; development of academic instruction, work-based learning, work-site learning and experience, information and guidance; means of student assessment and certification.

G. Meetings of Awardees

It is the intent of the DOL to coordinate the activities of the grantees and to encourage the grantees to share ideas, including the progress and problems encountered in the youth apprenticeship programs to be developed. The Department will hold quarterly meetings of the grantees for this purpose. The Department will pay for travel and accommodations for one appropriate project staff member to attend each of these meetings.

Section E.—Rating Criteria for Award

Prospective offerors are advised that the selection of grantee(s) for award is to be made after careful evaluation of proposals by a panel of specialists which can be drawn from within and outside of DOL.

Once proposals have met the basic eligibility requirements, each panelist will evaluate the proposals for acceptability with emphasis on the various factors enumerated below. The panel results are advisory in nature and not binding on the Grant Officer.

Part I. Specific Rating Criteria for Award

A. Basic Soundness of Proposal (40 points)

(1) The degree to which the proposal shows understanding of and incorporates each of the:
—Youth apprenticeship criteria and components outlined in section A., part I.
—The five basic principles and five issues outlined in the Background, section D., part I.

(2) The program's value in relation to the Department of Labor's goals and objectives in launching youth apprenticeship programs.

(3) The degree of involvement by organizations (e.g., local and state government agencies, school boards, Chambers of Commerce) with the capacity to effect significant change.

B. Potential for Broad-Scale Replication (20 points)

If the project has a plan for replicability, consideration will be given to factors covered under the plan which indicate that the project has potential for establishing a foundation for a comprehensive system for assisting non-college bound students to make the school-to-work transition through Youth Apprenticeship, including:
—The involvement of national industry groups, national organizations, and/or state government agencies with greater potential for replication;
—The integration of program operation into existing schools, with other State and local initiatives, and the expansion of program components into regular school, State, and local operations; and
—The degree to which the plan provides potential for replicability beyond the test site(s) and in a variety of industries—including evidence of continuing labor market need in the industries designated or a comprehensive plan for in-depth labor market analysis to determine need.

C. Program Resources (20 points)

The level of commitment of State, local, and other non-Federal resources, including consideration of the following:

(1) The proportion of total documented program resources, including funds and other resources with preference being given to grantees who offer a greater share of non-grant monies to the project;

(2) The level of involvement, measured by financial, staff time and in-kind resources, and proof of commitment by both schools and employers in the activities outlined in the basic eligibility requirements and under the youth apprenticeship agreement; and

(3) Evidence of the reallocation of existing resources and a sufficient level of resource commitment to allow for continuation of the project after federal funding has ended.

D. Administrative Capability (20 points)

Administrative capability in terms of:

(1) The applicant's capability for managing a technical and multi-faceted project;

(2) The qualifications of the project director and each of the key personnel to be used in the project, as demonstrated by previous experience and training in fields related to the project objectives; and

(3) The duties outlined for key executive, managerial and technical positions as they relate to the work that will be conducted under the program.

Applicants are advised that discussions may be necessary to clarify inconsistencies in the applications. The panel's review and evaluation are only advisory to the grant officer; the final decision to award will be made by the ETA grant officer after considering evaluation and scoring results. The ETA grant officer's decision will be based on what is most advantageous to the Government.

Section F.—Reporting Requirements

1. Quarterly Financial Reports as required by the grant award documents.

2. The Grantees shall attend a two-day meeting at the U.S. Department of Labor to receive orientation as to the overall intent and scope of this project and quarterly meetings.

3. The grantees shall submit bi-monthly reports and a 12-month yearly report.

Signed at Washington, DC, this 19th day of June, 1992.

Roberts T. Jones,

Assistant Secretary for Employment and Training.

BILLING CODE 4510-30-M

APPENDIX A

OMB Approval No. 0348-0043

APPLICATION FOR FEDERAL ASSISTANCE

1. TYPE OF SUBMISSION: Application ☐ Construction ☐ Non-Construction; Preapplication ☐ Construction ☐ Non-Construction	2. DATE SUBMITTED	Applicant Identifier
	3. DATE RECEIVED BY STATE	State Application Identifier
	4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

5. APPLICANT INFORMATION

Legal Name:	Organizational Unit:
Address (give city, county, state, and zip code):	Name and telephone number of the person to be contacted on matters involving this application (give area code)

6. EMPLOYER IDENTIFICATION NUMBER (EIN): ☐☐ – ☐☐☐☐☐☐☐

7. TYPE OF APPLICANT: (enter appropriate letter in box) ☐

A. State
B. County
C. Municipal
D. Township
E. Interstate
F. Intermunicipal
G. Special District
H. Independent School Dist.
I. State Controlled Institution of Higher Learning
J. Private University
K. Indian Tribe
L. Individual
M. Profit Organization
N. Other (Specify) _____

8. TYPE OF APPLICATION:

☐ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es): ☐ ☐

A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other (specify):

_____

9. NAME OF FEDERAL AGENCY:

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: ☐☐ – ☐☐☐

TITLE:

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT (cities, counties, states, etc.):

13. PROPOSED PROJECT: Start Date	Ending Date	14. CONGRESSIONAL DISTRICTS OF: a. Applicant	b. Project

15. ESTIMATED FUNDING:		
a. Federal	$	.00
b. Applicant	$	.00
c. State	$	.00
d. Local	$	.00
e. Other	$	.00
f. Program Income	$	.00
g. TOTAL	$	.00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON

DATE _____

b. NO ☐ PROGRAM IS NOT COVERED BY E.O. 12372

☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?

☐ Yes If "Yes," attach an explanation ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED

a. Typed Name of Authorized Representative	b. Title	c. Telephone number
d. Signature of Authorized Representative		e. Date Signed

Previous Editions Not Usable

Standard Form 424 (REV. 4-88)
Prescribed by OMB Circular A-102

Authorized for Local Reproduction

INSTRUCTIONS FOR THE SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item:	Entry:
1.	Self-explanatory.
2.	Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable).
3.	State use only (if applicable).
4.	If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.
5.	Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.
6.	Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.
7.	Enter the appropriate letter in the space provided.
8.	Check appropriate box and enter appropriate letter(s) in the space(s) provided: — "New" means a new assistance award. — "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date. — "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.
9.	Name of Federal agency from which assistance is being requested with this application.
10.	Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.
11.	Enter a brief descriptive title of the project. if more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.
12.	List only the largest political entities affected (e.g., State, counties, cities).
13.	Self-explanatory.
14.	List the applicant's Congressional District and any District(s) affected by the program or project.
15.	Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate *only* the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.
16.	Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.
17.	This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.
18.	To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

[FR Doc. 92-15217 Filed 6-26-92; 8:45 am]
BILLING CODE 4510-30-C

BUDGET INFORMATION - Non Construction Programs

Catalog of Federal Domestic Assistance	Estimated Unobligated Funds		New or Revised Budget	
CFDA NUMBER	FEDERAL	NON-FEDERAL	FEDERAL	NON-FEDERAL
1. _____	$_____	$_____	$_____	$_____
2. _____	$_____	$_____	$_____	$_____

COST CATEGORY	FEDERAL FUNDING			NON-FEDERAL CONTRIBUTION		
DIRECT COST	CURRENT FEDERAL BUDGET	REVISIONS AND/OR EXTENSIONS	REVISED FEDERAL BUDGET	CURRENT AWARDEE BUDGET	REVISIONS AND/OR EXTENSIONS	REVISED AWARDEE BUDGET
(A) PERSONNEL						
(B) FRINGE BENEFITS						
(C) TRAVEL & PER DIEM						
(D) EQUIPMENT **						
(E) SUPPLIES						
(F) CONTRACTUAL						
(G) OTHER						
TOTAL DIRECT COST						
INDIRECT COST						
TOTAL ESTIMATED COST						

** SEE PART IV - SPECIAL CONDITION #9

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Vol. 57, No. 125

Monday, June 29, 1992

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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 202-523-6641. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202-512-2470).

H.R. 1642/P.L. 102-304

Palo Alto Battlefield National Historic Site Act of 1991. (June 23, 1992; 106 Stat. 256; 3 pages) Price: $1.00

H.J. Res. 442/P.L. 102-305

To designate July 5, 1992, through July 11, 1992, as "National Awareness Week for Life-Saving Techniques". (June 23, 1992; 106 Stat. 259; 1 page) Price: $1.00

Last List June 26, 1992

CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, stock numbers, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

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Title	Stock Number	Price	Revision Date
1, 2 (2 Reserved)	(869-017-00001-9)	$13.00	Jan. 1, 1992
3 (1991 Compilation and Parts 100 and 101)	(869-017-00002-7)	17.00	[1] Jan. 1, 1992
4	(869-017-00003-5)	16.00	Jan. 1, 1992
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1-699	(869-017-00004-3)	18.00	Jan. 1, 1992
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1200-End, 6 (6 Reserved)	(869-017-00006-0)	19.00	Jan. 1, 1992
7 Parts:			
0-26	(869-017-00007-8)	17.00	Jan. 1, 1992
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46-51	(869-017-00009-4)	18.00	Jan. 1, 1992
52	(869-017-00010-8)	24.00	Jan. 1, 1992
53-209	(869-017-00011-6)	19.00	Jan. 1, 1992
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400-699	(869-017-00014-1)	15.00	Jan. 1, 1992
700-899	(869-017-00015-9)	18.00	Jan. 1, 1992
900-999	(869-017-00016-7)	29.00	Jan. 1, 1992
1000-1059	(869-017-00017-5)	17.00	Jan. 1, 1992
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9 Parts:			
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10 Parts:			
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11	(869-017-00034-5)	12.00	Jan. 1, 1992
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24 Parts:			
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29 Parts:			
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1910 (§§ 1910.1000 to end)	(869–013–00110–9)	14.00	July 1, 1991
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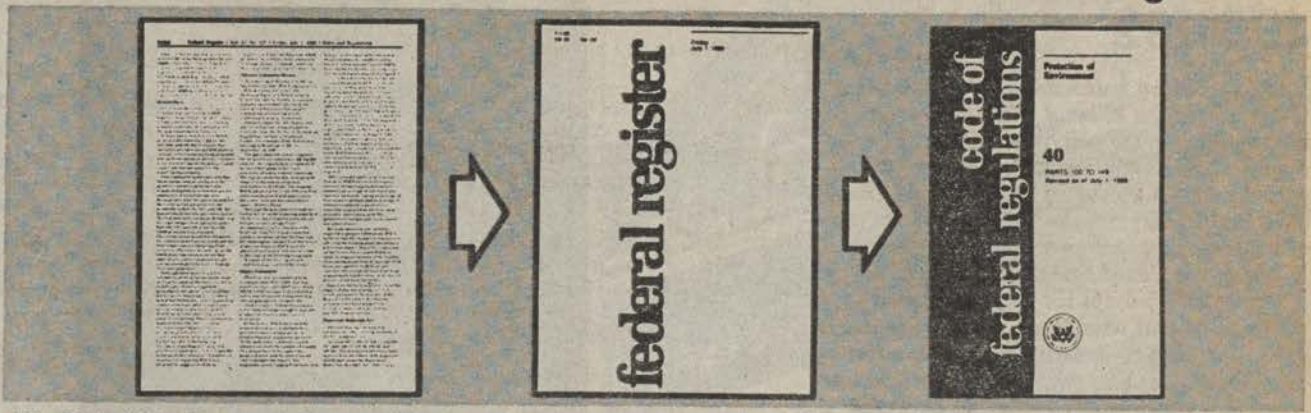

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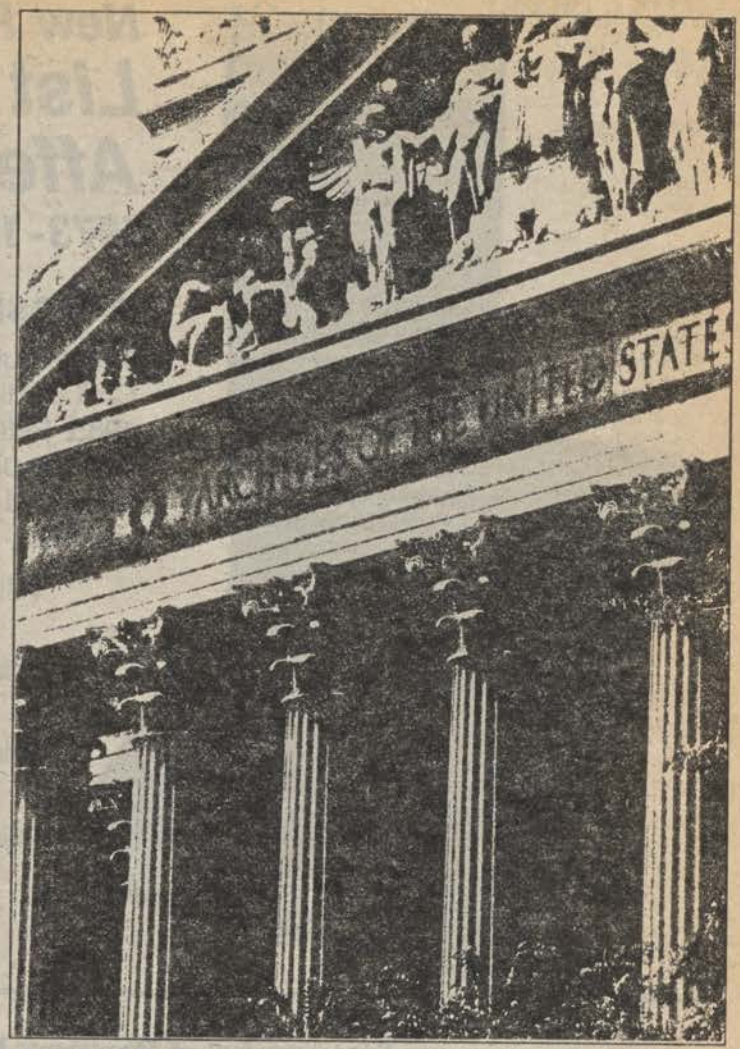

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